

PART SEVEN: PROCEDURES

GENERAL PROVISIONS:

7000 TITLE.

The provisions of Section 7000 through Section 7999, inclusive, shall be known as the Procedures.

7005 PURPOSE AND INTENT.

The purpose of these provisions is to provide procedures for processing applications and administering the requirements of the Zoning Ordinance. The intent is to provide flexibility to achieve good and appropriate development while providing certainty to landowners and other members of the public that the public health, safety and welfare will be protected.

(Amended by Ord. No. 7576 (N.S.) adopted 1-11-89)

7007 DECISION OF DENIAL FOR VIOLATION CASES.

The decision-making authority as defined by the respective permit type procedures herein shall have the discretion to deny a Use Permit, Administrative Permit, Site Plan, or Variance when there is an existing violation of any County Ordinance which the decision-making authority determines is related to the Use Permit, Administrative Permit, Site Plan, or Variance that is being sought.

(Added by Ord. No. 9690 (N.S.) adopted 12-15-04)

7010 APPLICABILITY.

The Procedures shall apply in all zones unless otherwise provided.

7015 CITIZEN ADVISORY BOARD REVIEW.

Notwithstanding any other provision of The Zoning Ordinance, where a decision-making authority is required to consider the action or recommendation of any citizen advisory board prior to making any decision as required by The Zoning Ordinance, the decision-making authority may act without such action or recommendation under any of the following circumstances:

1. Where an advisory board which has not conducted an initial meeting has not provided a recommendation within the time limitations of applicable sections of this Ordinance, or within 60 days, whichever is less, commencing from the date the Director transmits the application to a duly appointed advisory board member;
2. Where an advisory board previously established by the Board of Supervisors has subsequently been disestablished by the Board of Supervisors; or
3. Where an advisory board which has conducted an initial meeting has not provided a recommendation within the time limitation of applicable sections of The Zoning Ordinance.

When circumstances under 1. or 2. above involve a citizen advisory board other than a community planning or sponsor group, the Director shall distribute the application to the appropriate community planning or sponsor group. The decision-making body shall consider the recommendation, if any, of said planning or sponsor group which is received within the time limitations of applicable sections of The Zoning Ordinance, or within 60 days, whichever is less.

(Added by Ord. No. 8451 (N.S.) adopted 9-21-94)

ADMINISTRATIVE PERMIT PROCEDURE

7050 TITLE AND PURPOSE.

The provisions of Section 7050 through Section 7099, inclusive, shall be known as the Administrative Permit Procedure. The purpose of these provisions is to provide for the issuance of Administrative Permits.

7052 APPLICABILITY.

The Administrative Permit Procedure shall be applied as required by The Zoning Ordinance, the General Plan, a Specific Plan, Use Permit, Tentative Map, Tentative Parcel Map, or other discretionary approval.

(Amended by Ord. No. 8581 (N.S.) adopted 9-20-95)

7054 JURISDICTION: ADMINISTERING AGENCY.

The Administrative Permit Procedure shall be under the jurisdiction of the administering agency. The Director shall be the administering agency except where another officer or body is authorized by ordinance to grant Administrative Permits in designated situations or for particular purposes.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

7056 APPLICATION FOR AN ADMINISTRATIVE PERMIT.

Application for an Administrative Permit or modification thereof shall be made to the administering agency on such forms and containing such information as is prescribed by him, and shall be accompanied by the fee, if any, fixed pursuant to Section 7602.

(Amended by Ord. 5508 (N.S.) adopted 5-16-79)

7057 RELATIONSHIP TO OTHER APPLICATIONS.

When an application for granting or modifying an Administrative Permit is submitted concurrently with an application for a subdivision map, use permit, variance, or zone reclassification related to the same property, the administrative permit shall be under the jurisdiction of the officer or body having jurisdiction over the subdivision map, use permit, variance, or zone reclassification, and shall be reviewed and decided concurrently with such other application. A use permit may include authorization for any use, structure, or action for which an Administrative Permit is required, in which case no Administrative Permit is required.

(Added by Ord. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 7110 (N.S.) adopted 4-02-86)

7058

7058 REVIEW AND EVALUATION.

The administering agency shall review and evaluate Administrative Permit applications for conformance with the standards and criteria set forth in the pertinent sections of The Zoning Ordinance, and its review and evaluation shall not exceed the scope of said standards and criteria.

(Amended by Ord. 5508 (N.S.) adopted 5-16-79)

7060 DECISION AND NOTICE.

- a. Action. Upon completion of his review and evaluation of an application for an Administrative Permit, the administering agency shall either:
 1. Make such findings or other determination as is required by the pertinent sections of The Zoning Ordinance and approve the application, or
 2. Notify the applicant of the changes and modifications required for approval of the application, or
 3. Deny the Administrative Permit. The administrative agency shall deny the permit if:
 - i. The permit cannot be conditioned by adequate requirements to insure compliance with applicable regulations, or
 - ii. The application for the permit cannot reasonably be modified to conform to the applicable requirements.
- b. Time Period. Within 60 days of receipt of a complete application for an administrative permit, the administering agency shall take such action as is specified in subsection a. of this section. The 60 day time period may be extended with the written consent of the applicant. Such application shall be deemed complete pursuant to Section 65943 of the Government Code, 30 days after submittal to the Department unless, prior to that date, either:
 1. The applicant is notified in writing that the application is complete, in which case the 60 day processing period specified in this subsection shall begin to run from the date of such written notice, or
 2. The applicant is notified in writing that the application is incomplete, which notice shall state with particularity the defects or omissions in the application, in which case the 60 day processing period specified in this subsection shall not begin to run until the date all requested information has been submitted to the Department.

(Amended by Ord. No. 8015 (N.S.) adopted 12-04-91)

- c. **Notice to Property Owners.** When required by applicable sections of the Zoning Ordinance, the applicant shall either obtain and submit to the Director on a form provided by the Director written consent for issuance of the administrative permit from all owners of contiguous property (including owners of parcels or lots across any street or alley from the site) or shall provide notice materials (as specified by the Director) with the permit application which shall be used by the Department to notify contiguous property owners of the receipt of said application. If required by applicable sections of the Zoning Ordinance, notice shall be given beyond such owners of contiguous property to any additional owners within the specified distance of the subject property.
- d. **Public Hearing.** A public hearing shall not be held unless the administering agency determines that such hearing would be in the best interest of the County, or, if required by applicable sections of the Zoning Ordinance, where a hearing is requested by the applicant or other affected person.
- e. **Referral to Immigration and Naturalization Service.** Applications filed pursuant to Section 4830 requesting to reduce the 150 foot setback along the International Border shall be referred to the local office of the Immigration and Naturalization Service. In the event the INS expresses an intent to acquire all or part of the subject property the administering agency shall defer final action on the application for six months or until such time as the INS completes acquisition or abandons acquisition proceedings, whichever time period is less.
- f. **Defense of Lawsuits.** As a condition of approval of an Administrative Permit, for which an application was filed (as defined in Zoning Ordinance Section 1019b. before January 3, 2003), the applicant shall: (1) defend, indemnify and hold harmless the County, its agents, officers and employees from any claim, action or proceeding against the County, its agents, officers or employees to attack, set aside, void or annul the Administrative Permit or any of the proceedings, acts or determinations taken, done or made prior to such decision granting such permit; and (2) reimburse the County, its agents, officers or employees for any court costs and attorney's fees which the County, its agents, officers or employees may be required by a court to pay as a result of such approval. At its sole discretion, the County may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any obligation imposed by this condition. Each applicant seeking approval of any Administrative Permit, for which an application was filed (as defined in Zoning Ordinance Section 1019 b.) on or after January 4, 2003, shall be subject to the defense and indemnification provisions found at Chapter 2 (commencing at section 86.201) of Division 6 of Title 8 of the San Diego County Code.
- g. **Notwithstanding the above, Administrative Permits for Adult Entertainment Establishments shall be governed by the requirements specified in Section 6930.**

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 6586 (N.S.) adopted 5-18-83)
(Amended by Ord. No. 6691 (N.S.) adopted 11-30-83)
(Amended by Ord. No. 6782 (N.S.) adopted 5-16-84)
(Amended by Ord. No. 7110 (N.S.) adopted 4-02-86)
(Amended by Ord. No. 7246 (N.S.) adopted 12-10-86)
(Amended by Ord. No. 7306 (N.S.) adopted 5-20-87)
(Amended by Ord. No. 7740 (N.S.) adopted 3-28-90)
(Amended by Ord. No. 7782 (N.S.) adopted 7-25-90)
(Amended by Ord. No. 8015 (N.S.) adopted 12-04-91)
(Amended by Ord. No. 9469 (N.S.) adopted 7-12-02)
(Amended by Ord. No. 9517 (N.S.) adopted 12-04-02)
(Amended by Ord. No. 9569 (N.S.) adopted 7-09-03)

7062 CONDITIONS.

Administrative permits may be granted or modified subject to the performance of such conditions, including the provision of required improvements, and for such period of time as the administering agency shall deem to be reasonable and necessary or advisable under the circumstances so that the objective of The Zoning Ordinance shall be achieved. Such conditions shall be imposed and enforced as follows:

- a. Security May be Required to Insure Performance. In order to insure the performance of conditions imposed concurrently with the granting or modification of an administrative permit, the applicant may be required to furnish security in the form of money or surety bond in the amount fixed by the administering agency. Such security shall be furnished as required by Section 7612.

- b. Provision of Required Improvements. Whenever an Administrative Permit is granted or modified subject to the condition that specified improvements be provided by the applicant, such improvements shall be installed by the applicant and approved and accepted by the cognizant County authority, or the applicant shall execute an agreement with the cognizant County authority pursuant to Section 7613 to make such improvements, prior to the time or events specified in the permit.

- c. Condition Declared Void. Whenever there becomes final any judgment of a court of competent jurisdiction declaring one or more of the conditions of an administrative permit to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation of one or more of such conditions, said administrative permit shall cease to be valid and all rights or privileges granted thereby shall lapse, as provided in Section 7076.

- d. Violation of Condition. Whenever an Administrative Permit is granted or modified to a condition or conditions, use or enjoyment of the Administrative Permit in violation of or without observance of any such condition shall constitute a violation of The Zoning Ordinance and said administrative permit may be revoked or modified as provided by Section 7074.

(Amended by Ord. 5508 (N.S.) adopted 5-16-79)

7064 APPEAL

A decision pursuant to Sections 7060 or 7074 may be appealed as provided by the Administrative Appeal Procedure commencing at Section 7200, except that, unless an appeal is otherwise provided by law, the Director's decision pursuant to Section 7060 concerning an adult entertainment establishment shall be final and not appealable and shall be subject to prompt judicial review in a court of competent jurisdiction.

(Amended by Ord. No. 8015 (N.S.) adopted 12-04-91)

(Amended by Ord. No. 9548 (N.S.) adopted 4-9-03)

7066 DISCONTINUANCE.

Each Administrative Permit granted pursuant to these provisions shall expire and become null and void at the expiration of one year after the purpose for which it was granted has been discontinued or abandoned.

7068 EXPIRATION.

Each valid unrevoked and unexpired Administrative Permit shall expire at the time specified in each permit, or if no time is specified, at the expiration of two years after granting except where construction and/or use of the property in reliance on such permit has commenced prior to its expiration; provided, however, that the period within which such construction and/or use must be commenced may be extended as provided by Section 7070.

(Amended by Ord. No. 8897 (N.S.) adopted 3-18-98)

7070 APPLICATION FOR EXTENSION OF RELIANCE PERIOD OF AN ADMINISTRATIVE PERMIT.

If prior to expiration of the Administrative Permit, the applicant files a written application for extension, the period within which construction or use of the property in reliance on the administrative permit must be commenced may be extended by order of the administrative agency at any time within 90 days after the date of expiration as originally established. An application for such an extension shall be made on the prescribed form, shall be accompanied by the fee fixed pursuant to Section 7602, and shall be filed with the administering agency. The period within which construction and/or use of the property in reliance on the Administrative Permit must be commenced may be extended subject to conditions, as provided by Section 7062. Decisions of the administering agency may be appealed as provided by the Administrative Appeal Procedure.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 5786 (N.S.) adopted 6-4-80)

7072

7072 APPLICATION FOR MODIFICATION OF AN ADMINISTRATIVE PERMIT.

Any person holding an Administrative Permit may apply for a modification by complying with Section 7056. For the purposes of this section, the modification of an Administrative Permit may include modification of the terms of the permit itself or the waiver or alteration of conditions imposed pursuant to Section 7062. Sections 7050 through 7074, inclusive, shall apply to the disposition of an application for the modification of an Administrative Permit.

7074 REVOCATION OR MODIFICATION OF AN ADMINISTRATIVE PERMIT FOR CAUSE.

An administrative permit may be revoked or modified for cause as provided by the provisions of this section. For purposes of this section, the modification of an Administrative Permit may include the modification of the terms of the permit itself or the waiver, alteration or imposition of new conditions pursuant to Section 7062.

- a. Grounds for Revocation or Modification. An Administrative Permit may be revoked or modified pursuant to the provisions of this section upon a finding of any one or more of the following grounds:
 1. That such permit was obtained or extended by fraud.
 2. That one or more of the conditions upon which such permit was granted have been violated.
 3. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.
- b. Notification. The administering agency shall give:
 1. 10 days notice of intention to revoke or modify an administrative permit (except that notice of intention need not be given with respect to an administrative permit issued pursuant to the Temporary Use Regulations), and
 2. Written notice of its action in revoking or modifying the permit to the applicant and to the owner of the subject property as shown on the latest assessment rolls or as indicated by more recent information as may be available to the administering agency.
- c. Appeal. The revocation or modification of an Administrative Permit may be appealed pursuant to the Administrative Appeal Procedures beginning at Section 7200.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 5786 (N.S.) adopted 6-4-80)

7078: AUTOMATIC REVOCATION OF AN ADMINISTRATIVE PERMIT.

If an administrative permit is granted or modified subject to one or more conditions, such administrative permit shall cease to be valid, and all rights or privileges granted thereby shall lapse, notwithstanding any other provisions of the Zoning Ordinance to the contrary, whenever there becomes final any judgment of a court of competent jurisdiction declaring one or more of such conditions to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation of one or more of such conditions.

7080 FORMER SIGN PERMITS AS ADMINISTRATIVE PERMITS.

Sign permits granted pursuant to Ordinance 1402 (New Series) as amended shall be deemed to be administrative permits subject to the Administrative Permit Procedure, and may be modified or revoked as administrative permits.

(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)

VARIANCE PROCEDURE**7100 INTENT AND PURPOSE.**

The provisions of Section 7100 through Section 7149, inclusive, shall be known as the Variance Procedure. A variance may be granted when practical difficulties, unnecessary hardship or results inconsistent with the general purposes of the Zoning Ordinance would result from the literal enforcement of its requirements. A variance may be granted to allow the following:

- a. Animal Enclosure Setbacks. A modification of animal enclosure setbacks as set forth in Section 3112;
- b. Development Regulations. A modification of the Development Regulations commencing with Section 4000 except for the Building Type Regulations commencing with Section 4300, and except for the Height Regulations commencing with Section 4600 on properties subject to the R and S Special Area Regulations in the Coastal Zone;
- c. Coastal Development Area Regulations. Repealed.
- d. Selected General Regulations. A modification of the Fencing and Landscaping Regulations, the Off-Street Parking and Loading Regulations and the provisions of the Nonconforming Use Regulations dealing with the expansion, extension, alteration, or relocation of nonconforming buildings; and,
- e. Other Regulations. A modification of other regulations in the Zoning Ordinance provided that such regulations expressly provide for the granting of a variance.

A variance shall not be granted which would have the effect of granting a special privilege not shared by other property in the same vicinity and subject to the same regulations; nor shall a variance be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the regulations governing the property.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
 (Amended by Ord. No. 6761 (N.S.) adopted 4-25-84)
 (Amended by Ord. No. 7008 (N.S.) adopted 8-7-85)
 (Amended by Ord. No. 8166 (N.S.) adopted 10-21-92)

7102 CLASSIFICATION OF VARIANCES AND ORIGINAL JURISDICTION.

Variations shall be classified according to the circumstances of their submission and original jurisdiction shall be exercised over them as follows:

- a. **Concurrent Variance.** When an application for granting or modifying a variance is submitted concurrently with an application for granting or modifying a use permit or subdivision map, said variance would be incidental and necessary to said use permit or subdivision map, the variance shall be designated as a concurrent variance and the application shall be under the original jurisdiction of the body having authority over the use permit or subdivision map and subject to the same procedures.
- b. **Coastal Variance.** Repealed.
- c. **Regular Variance.** All other variances shall be designated as regular variances and applications for their granting or modification shall be under the jurisdiction of the Director.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 6543 (N.S.) adopted 3-2-83)

(Amended by Ord. No. 8166 (N.S.) adopted 10-21-92)

7104 APPLICATION FOR THE GRANTING OF A VARIANCE.

An application for the granting of a variance shall be made as follows:

- a. **Persons Eligible.** The following persons shall be eligible to apply for the granting of a variance:
 - 1. A property owner.
 - 2. A lessee.
 - 3. A person authorized to exercise the power of eminent domain.
- b. **Required Documents.** An application for the granting of a variance shall be accompanied by the following documents:
 - 1. A list of names of all persons having an interest in the application as well as the names of all persons having any ownership interest in the property involved. If any person identified pursuant to this provisions is a corporation or partnership, the names of all persons owning more than 10 percent of the shares in the corporation or owning any partnership interest in the partnership shall be listed. If any person identified pursuant to this provisions is a non-profit organization or trust, the names of all persons serving as directors of the non-profit organization or as beneficiaries, trustees and trustors of the trust shall be listed.
 - 2. Complete plans and description of the property involved and the proposed variance.

3. Satisfactory evidence of the ability and intention of the applicant to proceed with actual construction work in accordance with requested variance within 6 months after it is granted.
 4. The appropriate Environmental Impact Review document, as provided by Section 7610.
- c. Application Form, Filing and Fee. An application for the granting or modification of a variance shall be made on the prescribed form and shall be filed with whomever has jurisdiction as provided by Section 7102, and shall be accompanied by the fee referenced in Section 7602.

7105 HEARING AND NOTICE.

- a. All actions for the revocation or modification of a variance for cause shall be heard at a public hearing scheduled and noticed as required by Section 7603 and 7605, respectively.
- b. All applications for the granting or modification of a regular variance, other than those subject to Section 7106, shall be acted upon as follows: Immediately upon determining that the application is complete, the Director shall provide notice of receipt of the application in the manner required by Section 7605.b; said notice shall indicate that the Director will make a decision on the application without holding a public hearing unless one is requested, and will consider any written comments interested persons desire to submit. The notice shall state that a request for hearing or written comments must be received by the Director no later than 10 days after the date the notice was given. In the event a request for public hearing is received, a public hearing shall be scheduled, conducted and noticed as required by Sections 7603 through 7607. If no request for hearing is received, the Director shall consider the application together with any written comments received and take action pursuant to Section 7108.

(Amended by Ord. No. 7935 (N.S.) adopted 6-19-91)
 (Amended by Ord. No. 8157 (N.S.) adopted 10-14-92)
 (Amended by Ord. No. 8185 (N.S.) adopted 12-16-92)

7106 HEARING AND NOTICE NOT REQUIRED.

The Director may, without hearing or notice, grant a regular variance meeting all other requirements of The Zoning Ordinance and the following additional requirements:

7106

- a. **Maximum Reduction.** The requested variance shall not exceed a 25 percent reduction in the applicable minimum lot size regulations, a 50 percent reduction in the applicable setback regulations, as measured from property line, or street line, and a 75 percent increase in the applicable fence height requirements.
- b. **Consent of Adjacent Property Owners.** The application for the requested variance shall include written consent to the granting of the requested variance signed by the owner or owners of each lot or parcel adjoining the site of the proposed building or structure and the owner or owners of land across any street or alley from such site.
- c. **Reapplication.** In the event the Director declines to grant a regular variance requested pursuant to this Section, the applicant may, within 60 days after applying for such variance, request that the variance be scheduled for public hearing in accordance with Sections 7104 and 7105. The applicant shall pay an additional fee in an amount consisting of the difference between the fee specified in Section 7104 and that already paid.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)
(Amended by Ord. No. 6543 (N.S.) adopted 3-2-83)
(Amended by Ord. No. 6654 (N.S.) adopted 9-21-83)
(Amended by Ord. No. 6761 (N.S.) adopted 4-25-84)
(Amended by Ord. No. 6983 (N.S.) adopted 7-03-85)

7107 **FINDINGS REQUIRED.**

Before any variance may be granted or modified, it shall be found:

- a. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to the property or class of use in the same vicinity and zone; and
- b. That granting the variance or its modification is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone, and denied to the property for which the variance is sought; and
- c. That granting the variance or its modification will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and zone in which the property is located; and
- d. That granting the variance or its modification will not be incompatible with the San Diego County General Plan.

7108 **DECISION AND NOTICE.** The Board of Supervisors, the Planning Commission, or the Director shall decide and notice matters concerning Variances as follows:

- a. **Application for Granting or Modifying a Variance.** Upon considering an application for granting or modifying a Variance, and holding any public hearing required thereon, the Board of Supervisors, the Planning Commission, or the Director, whoever has jurisdiction over the application, shall deny the Variance or the requested modification; or shall grant or modify the Variance subject to specified conditions as may be imposed pursuant to Section 7110. Notice of the decision on the application shall be filed in the office of the authority having jurisdiction over the application and a copy of the notice shall be mailed to the applicant at the address shown on the application. Said decision shall become effective as provided in Section 7112.

- b. **Action to Revoke or Modify a Variance For Cause.** Following the hearing in an action to revoke or modify a Variance as prescribed in Section 7130, the Board of Supervisors, the Planning Commission, or the Director, whoever conducts the hearing, may decide to revoke or to modify the Variance, or may decide to take no action. Notice of the decision on the action shall be filed in the office of the deciding authority and a copy of said notice shall be mailed to the person to whom the Variance was originally granted. Said decision shall become effective as provided in Section 7112.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 8157 (N.S.) adopted 10-14-92)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7110 **CONDITIONS.**

Variances may be granted or modified subject to the performance of such conditions, including the provision of required improvements, and for such period of time as the Planning Commission, Board of Supervisors, or the Director whoever grants or modifies the Variance, shall deem to be reasonable and necessary or advisable under the circumstances so that the objectives of this Ordinance shall be achieved. Such conditions shall be imposed and enforced as follows:

- a. **Security May Be Required to Insure Performance.** In order to insure the performance of conditions imposed concurrent with the granting or modification of a Variance, the applicant may be required to furnish security in the form of money or surety bond in the amount fixed by the authority granting or modifying the Variance. Such security shall be furnished as required by Section 7612.

- b. **Provision of Required Improvements.** Whenever a Variance is granted or modified subject to the condition that specified improvements be provided by the applicant, such improvements shall be installed by the applicant and approved and accepted

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by the cognizant County authority, or the applicant shall execute an agreement with the cognizant County authority pursuant to Section 7613 to make such improvements, prior to the time or events specified in the Variance.

- c. **Conditions Declared Void.** Whenever there becomes final any judgment of a court of competent jurisdiction declaring one or more of the conditions of a Variance to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation of one or more of such conditions, said Variance shall cease to be valid and all rights or privileges granted thereby shall lapse, as provided in Section 7128.
- d. **Violation of Condition.** Whenever a Variance is granted or modified subject to a condition or conditions, use or enjoyment of the Variance in violation of or without observance of any such condition shall constitute a violation of The Zoning Ordinance and said Variance shall be revoked or modified as provided by Section 7130.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7112 EFFECTIVE DATE.

Decisions of the Planning Commission, or the Director, made pursuant to Section 7108 shall become final and effective on the eleventh day following the date of decision unless an appeal of the decision is filed as provided by Section 7114. All decisions of the Board of Supervisors made pursuant to Section 7108 shall be effective immediately.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 6761 (N.S.) adopted 4-25-84)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7114 APPEAL.

Variance decisions made pursuant to Sections 7108, 7124 or 7130 may be appealed as follows:

- a. **Appeals Authorized.**
 - 1. A concurrent Variance decision may be appealed to the same appeal authority and pursuant to the same procedures as apply to the use permit or subdivision map with which the Variance is concurrent.
 - 2. Repealed.
 - 3. A regular Variance decision by the Director may be appealed to the Planning Commission.

- b. **Persons Authorized to Appeal.** No person may appeal except the applicant for the granting or modification of a Variance, a County officer or body acting pursuant to paragraph "c" of this Section, and those persons who protest the granting, revocation, or modification of a Variance either by written protest filed in the office of the Planning Commission, or the Director, whoever has jurisdiction over the Variance, prior to the time of the hearing or consideration of the matter by said authority; or by appearing and protesting the granting, revocation or modification of the Variance at the hearing or consideration of the matter by said authority.
- c. **County Officer May Appeal.** Notwithstanding any other provision of this Ordinance, any County officer, Board, Commission or other County body, other than the authority having jurisdiction over the appeal, may appeal a decision of the Planning Commission, or the Director pursuant to Section 7108, without fee.
- d. **Manner and Time of Filing.** An appeal shall be in writing, shall be accompanied by the fee referenced in Section 7602, and shall be filed within ten days following the decision, as provided in Section 7112, in the office of the Planning Commission, or Director, whoever rendered the decision.
- e. **Effect of Filing the Appeal.** An appeal of a decision within the time specified in paragraph "d" of this Section shall stay the proceedings and effective date of the decision of the Planning Commission, or Director as provided by Section 7112, until such time as the appeal has been acted on as hereinafter set forth in the Ordinance.
- f. **Public Hearing.** Following the filing of an appeal, the authority having appellate jurisdiction shall hold a public hearing on the matter scheduled and noticed as required by Sections 7603 and 7605, respectively. The public hearing shall be a hearing de novo and all interested persons may appeal and present evidence.
- g. **Decision and Notice.** Following the hearing on an appeal, the authority having the appellate jurisdiction may sustain the decision which is being appealed; or may grant or modify the Variance subject to specified conditions it imposes pursuant to Section 7110; or may revoke or deny the Variance, as is appropriate. The authority shall adopt findings, which specify all facts relied upon by it in reaching its decision and their relation to the requirements of Section 7107, and which state the reasons for any conditions imposed by it; provided, however, findings shall be deemed waived unless expressly requested in writing by the applicant or appellant at the time of the hearing on the

appeal and prior to decision by the authority. Notice of the decision of the authority together with a copy of any findings adopted by said authority shall be mailed to the appellant and applicant, or to both if they are different parties, and a copy thereof shall be attached to the Planning Commission's, or Director's file in the matter and said file returned to the Planning Commission, or Director, whoever rendered the decision which was appealed.

- h. **Finality and Effective Date.** Subject to the provisions of Chapter 4 (commencing with Section 86.401) of Division 6 of Title 8 of the San Diego County Code, relating to appeals of environmental determinations, the decision of the authority having jurisdiction over an appeal shall be final, conclusive, and effective immediately.
- i. **No Decision Reached.** Whenever an authority holds a hearing on an appeal from a decision of the Planning Commission, or the Director and thereafter fails to reach a decision because a motion on the item failed to carry by the required vote, the secretary of the authority shall set the matter for a noticed public hearing de novo if such hearing is requested by the authority. Such request must be made within 30 days of the date when the motion on the item failed to carry. If no such request is made within such period, the decision of the Planning Commission, or the Director from which the appeal has been taken shall be deemed sustained.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 6654 (N.S.) adopted 9-21-83)

(Amended by Ord. No. 7979 (N.S.) adopted 10-02-91)

(Amended by Ord. No. 8166 (N.S.) adopted 10-21-92)

(Amended by Ord. No. 8425 (N.S.) adopted 7-13-94)

(Amended by Ord. No. 9548 (N.S.) adopted 4-9-03)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7118 NUISANCE.

The granting or modification of a Variance pursuant to these provisions shall not authorize or legalize the maintenance of any private or public nuisance.

7120 DISCONTINUANCE.

Each Variance granted pursuant to these provisions shall expire and become null and void at the expiration of one year after the purpose for which it was granted shall be been discontinued or abandoned.

7122 EXPIRATION.

Each valid unrevoked and unexpired Variance shall expire and become null and void at the time specified in such Variance, or if no time is specified, at the expiration of two years after granting except where construction and/or use of the property in reliance on such Variance has commenced prior to its expiration; provided, however, that the period within which such construction and/or use must be commenced may be extended as provided by Section 7124.

(Amended by Ord. No. 8897 (N.S.) adopted 3-18-98)

7124 APPLICATION FOR EXTENSION OF RELIANCE PERIOD OF A VARIANCE.

If prior to expiration of the Variance the applicant files a written application for extension, the period within which construction or use of the property in reliance on the Variance must be commenced may be extended by order of the Director, Planning Commission or Board of Supervisors, whichever granted the Variance, (or, in the case of a Variance granted by the Board of Planning and Zoning Appeals, by the Board of Supervisors) at any time within 90 days of the date of expiration as originally established. An application for such an extension shall be made on the prescribed form, shall be accompanied by the fee referenced in Section 7602, and shall be filed with the authority who granted the Variance. The period within which construction and/or use of the property in reliance on a Variance must be commenced may be extended subject to conditions, as provided by Section 7110. Decision of the Director, Planning Commission or Board of Supervisors pursuant to this section shall become effective as provided by Section 7112. Decisions of the Director, and Planning Commission may be appealed as provided by Section 7114. All other provisions of The Zoning Ordinance shall apply to an extension granted in accordance with this section.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 8425 (N.S.) adopted 7-13-94)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7126

7126 APPLICATION FOR MODIFICATION OF A VARIANCE.

Any person holding a Variance may apply for a modification by complying with Section 7104.c. For the purposes of this section, the modification of a Variance may include modification of the terms of the Variance itself or the application, waiver, or alteration of conditions imposed pursuant to Section 7110. The following provisions of the Variance Procedure shall apply to the disposition of an application for the modification of a Variance: Sections 7104, 7105, 7107, 7108a. and 7110 through 7114, inclusive.

7128 AUTOMATIC REVOCATION OF A VARIANCE.

If a Variance is granted or modified subject to one or more conditions, such Variance shall cease to be valid, and all rights or privileges granted thereby shall lapse, notwithstanding any other provisions of the Zoning Ordinance to the contrary, whenever there becomes final any judgment of a court of competent jurisdiction declaring one or more of such conditions to be void or ineffective, or enjoining or otherwise prohibiting the enforcement of operation of one or more such conditions.

7130 REVOCATION OR MODIFICATION OF A VARIANCE FOR CAUSE.

A Variance may be revoked or modified for cause as provided by the provisions of this section. For purposes of this section, the modification of a Variance may include modification of the terms of the Variance itself or the waiver alteration or imposition of new conditions pursuant to Section 7110.

- a. Grounds for Revocation or Modification. A Variance may be revoked or modified pursuant to the provisions of this section on any one or more of the following grounds:
1. That such Variance was obtained or extended by fraud.
 2. That one or more of the conditions upon which such Variance was granted have been violation.
 3. That the use for which the Variance was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

- b. **Initiation of Action.** An action to revoke or modify a Variance may be initiated by order of the Board of Supervisors, Planning Commission, or the Director, whichever granted or modified the Variance, on its own motion or on the request of any County Officer; provided, however, the Planning Commission may initiate an action to revoke or modify any Variance granted or modified by the Director or the Planning Environmental Review Board and the Board of Supervisors may initiate an action to revoke or modify any Variance granted or modified by either the Director, the Planning Environmental Review Board, the Board of Planning and Zoning Appeals or the Planning Commission. The order shall set forth grounds for revocation or modification.
- c. **Other Provisions Applicable.** The following provisions of the Variance Procedure shall apply to an action for the revocation or modification of any Variance: Sections 7105, 7180.b, and 7110 through 7114, inclusive.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)
 (Amended by Ord. No. 8425 (N.S.) adopted 7-13-94)
 (Amended by Ord. No. 9767 (N.S.) adopted 9-22-04)

7132 EXTENSION OF TIME LIMITS.

The time limits prescribed for the Variance Procedure may be extended by the Board of Supervisors, the Planning Commission, or the Director, as appropriate, upon the consent of the applicant or appellant.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)
 (Amended by Ord. No. 8425 (N.S.) adopted 7-13-94)
 (Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7134 REAPPLICATION.

No application for the granting of a Variance which has been denied shall be filed earlier than one year after the date such denial becomes effective, unless specific permission to do so has been granted as follows:

- a. **Denial by Director.** If the Director has denied the Variance, permission to reapply may be granted by the Director, the Planning Commission or the Board of Supervisors.
- b. **Denial by the Planning Commission.** If the Planning Commission has denied the Variance, permission to reapply may be granted by the Planning Commission or the Board of Supervisors.
- c. **Denial by the Board.** If the Board of Supervisors has denied the Variance, permission to reapply may be granted by the Board of Supervisors.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)
 (Amended by Ord. No. 7306 (N.S.) adopted 5-20-87)
 (Amended by Ord. No. 8425 (N.S.) adopted 7-13-94)
 (Amended by Ord. No. 8897 (N.S.) adopted 3-18-98)
 (Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

SITE PLAN REVIEW PROCEDURE**7150 TITLE AND PURPOSE.**

The provisions of Section 7150 through Section 7199 shall be known as the Site Plan Review Procedure. The purpose of these provisions is to provide a review procedure for development proposals which is concerned with physical design, siting, interior vehicular and pedestrian access, and the interrelationship of these elements. Approval of a Site Plan does not authorize any use not otherwise permitted by this Ordinance.

(Amended by Ord. No. 5786 (N.S.) adopted 6-4-80)

7152 APPLICABILITY.

The Site Plan Review Procedure shall be applied as required by The Zoning Ordinance, the General Plan, a Specific Plan, Use Permit, Tentative Subdivision Map, Tentative Parcel Map, or other discretionary development approval.

(Amended by Ord. No. 5786 (N.S.) adopted 6-4-80)

7154 JURISDICTION.

The Director shall be responsible for administering the Site Plan Review Procedure and for reviewing and evaluating of all Site Plans submitted pursuant to this procedure.

7156 WAIVER OF SITE PLAN.

- a. The Director may waive the requirement for a Site Plan if he finds that all of the purposes and requirements of the Site Plan have been or will be fulfilled by another discretionary permit; or
- b. Where the Director finds the proposed development or improvement is minor in nature and the public purpose for which the Site Plan would normally be required will not be harmed by waiver of said requirement. This subsection "b" shall not apply to land falling within the coastal zone, as defined by the California Coastal Act of 1976.

No building permit shall be issued for a project for which the Site Plan requirement has been waived except pursuant to plans bearing the Director's stamp granting such waiver. No deviation from aspects of such plans pertinent to the purposes for which a Site Plan review would otherwise have been required shall be permitted without prior approval of the Director.

This Section shall not apply to those Site Plans required by a special area regulations designator where there are specific waiver criteria established under the special area regulations designator sections.

(Added by Ord. No. 5508 (N.S.) adopted 5-16-79)
 (Amended by Ord. No. 6655 (N.S.) adopted 9-28-83)
 (Amended by Ord. No. 7432 (N.S.) adopted 1-06-88)
 (Amended by Ord. No. 8105 (N.S.) adopted 7-15-92)
 (Amended by Ord. No. 8236 (N.S.) adopted 5-5-93)

7157

7157 TRANSMITTAL TO OTHER AGENCIES.

Whenever an agency or board is required by this Ordinance to review a Site Plan submitted to the Director, the Director shall forward a copy of the application and accompanying plans, maps and diagrams to the appropriate agency or board within five working days after receiving a complete Site Plan application. In the case of Site Plans pursuant to the Community Design Review Area Regulations, each member of the applicable Community Design Review Board shall receive a copy of the project plans. The agency or board shall review the application and make its recommendations thereon to the Director. The Director shall not make a decision with respect to the Site Plan until he has considered the report and recommendation of the agency or board. Citizen Advisory Boards shall review and make recommendations within 21 days of receipt of said application unless no meeting is held within that time frame. If no recommendation is received within 45 days after transmitting the application to the agency or board, the Director may make a decision without the agency or board's recommendation. The Director may make a decision after 35 days, if the Director has either received recommendations from all agencies, boards and planning or sponsor groups to whom notice has been sent, or has been informed by said agencies, boards and/or planning or sponsor groups, that they will not be making recommendations. The Director shall transmit a copy of his decision to the agency or board at the time the decision is made.

(Added by Ord. No. 5330 (N.S.) adopted 12-13-78)
(Amended by Ord. No. 8236 (N.S.) adopted 5-5-93)
(Amended by Ord. No. 9101 (N.S.) adopted 12-8-99)

7158 REVIEW AND EVALUATION.

The Director shall review and evaluate Site Plans submitted to him in accordance with the following guidelines:

- a. **Scope.** The Director shall review and evaluate Site Plans for conformance with the Site Plan review standards and criteria set forth in the pertinent sections of The Zoning Ordinance, and his review and evaluation of the Site Plan shall not exceed the scope of said standards and criteria.
- b. **Modifications Required For Approval of the Site Plan.** The Director may specify modifications, changes, and additions to the Site Plan which are required for its approval. The modifications, changes, and additions shall not exceed the scope of the Site Plan review standards and criteria set forth in the pertinent sections of The Zoning Ordinance, nor shall they alter or vary the requirements of those pertinent sections of The Zoning Ordinance otherwise applicable to the development proposal. However, such standards and criteria and requirements may be modified or changed as specified by the Director to eliminate or mitigate significant adverse environmental effects disclosed by an environmental impact report.
- c. **Improvements Required for Approval of the Site Plan.** The Director shall ensure that all Site Plans provide for on- and off-site improvements which may be required by the Site Plan review standards and criteria set forth in pertinent sections of The Zoning Ordinance. Such requirements for improvements may be modified as provided by subsection "b" of this section. The Director may require the applicant to enter into an agreement to provide such improvements and this agreement shall be accompanied by a completion bond as provided by Section 7613.

- d. **Waiver of Standards and Criteria.** The Director may waive those standards and criteria prescribed for the review and evaluation of a site plan which he finds have been or will be fulfilled by condition or conditions of a Use Permit or Variance.

(Amended by Ord. No. 5786 (N.S.) adopted 6-4-80)

7160 FINDINGS REQUIRED.

Prior to approving a site plan the Director shall find:

- a. **Standards and Criteria.** That the proposed development meets the intent and specific standards and criteria prescribed in pertinent sections of the Zoning Ordinance.
- b. **General Plan.** That the proposed development is compatible with the San Diego County General Plan; and
- c. **Waiver of Standards or Criteria.** That any applicable standards or criteria waived by the Director pursuant to Section 7158.d have been or will be fulfilled by the condition or conditions of a Use Permit or Variance.

7162 DECISION AND NOTICE.

- a. **Action.** Upon completion of review and evaluation of a site plan, the Director shall either:
 1. Make such findings as are required by Section 7160 and approve the Site Plan, or
 2. Notify the applicant of those changes and modifications required for approval of the Site Plan, or
 3. Deny the Site Plan if the Director finds that:
 - i. The Site Plan cannot be conditioned by adequate requirements to insure compliance with applicable regulations, or
 - ii. The Site Plan cannot reasonably be modified to conform to the applicable requirements.

7162

- b. **Time Period.** Within 60 days of receipt of a complete application for Site Plan review, the Director shall act as provided in subsection "a". The 60 day period may be extended with the written consent of the applicant. Failure of the Director to act within the specified time period or extension thereof, shall not affect the validity of the Director's decision.
- c. **Effective Date.** All decisions of the Director made pursuant to this Section 7162 shall become final and effective on the eleventh day following the date of decision unless an appeal of the decision is filed as provided by Section 7166.

(Amended by Ord. No. 5786 (N.S.) adopted 6-4-80)
(Amended by Ord. No. 7740 (N.S.) adopted 3-28-90)
(Amended by Ord. No. 7935 (N.S.) adopted 6-19-91)

7164 **CONDITIONS.**

Site Plans may be approved or modified subject to the performance of such conditions, including the provision of required improvements as the Director shall deem to be reasonable and necessary or advisable under the circumstances so that the objectives of The Zoning Ordinance shall be achieved. Such conditions shall be imposed and enforced as follows:

- a. **Security May Be Required to Insure Performance.** In order to insure the performance of conditions imposed concurrent with the granting or modification of a Site Plan, the applicant may be required to furnish security in the form of money or surety bond in the amount fixed by the authority granting or modifying the Site Plan. Such security shall be furnished as required by Section 7612.
- b. **Provision of Required Improvements.** Whenever a Site Plan is granted or modified subject to the condition that specified improvements be provided by the applicant, such improvements shall be installed by the applicant and approved and accepted by the cognizant county authority, the applicant shall execute an agreement with the cognizant county authority pursuant to Section 7613 to make such improvements prior to the time or events specified in the Site Plan.

- c. **Condition Declared Void.** Whenever there becomes final any judgement of a court of competent jurisdiction declaring one or more of the conditions of a Site Plan approval to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation or one or more of such conditions, said Site Plan approval shall cease to be valid and all rights or privileges granted thereby shall lapse, as provided by Section 7174.
- d. **Violation of Condition.** Whenever a Site Plan, is approved or modified subject to a condition or conditions, use or enjoyment of the Site Plan in violation of or without observance of any such condition shall constitute a violation of the Zoning Ordinance and said Site Plan may be revoked or modified as provided in Section 7172.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

7166 APPEAL.

A decision of the Director pursuant to Section 7162, 7169 or 7172 may be appealed as follows:

- a. **Persons Eligible.** The following persons shall be eligible to file an appeal:
 - 1. A person having an interest in the property that is the subject of the decision being appealed (hereinafter subject property).
 - 2. A person having an interest in property located within 300 feet of the exterior boundaries of the subject property.
 - 3. A person not having an interest in property located within 300 feet from exterior boundaries of the subject property, who after written petition to the Planning Commission, receives permission to file an appeal. The decision of the Planning Commission on a petition requesting permission to appeal shall be made without hearing and shall be final.
 - 4. A County Officer, Board, Commission, or other County body other than the authority having jurisdiction over the appeal. County citizen advisory groups authorized to review Site Plans for the Community Design Review ("B" Designator), the Historic/ Archaeological Landmark or District ("H" Designator), and the Specific Historic District ("J" Designator), Special Area Regulations shall only be eligible to file appeals involving those Site Plan applications over which they have review jurisdiction.
- b. **Timeliness.** An appeal of application for permission to appeal, shall be filed within 10 days of the date on which the decision being appealed was rendered.
- c. **Form, Filing and Fee.** An appeal shall be in writing accompanied by the fee prescribed pursuant to Section 7602, and shall be filed in the office of the Director.
- d. **Effect of Filing and Appeal.** An appeal of a decision, or application for permission to appeal, within the time specified in paragraph "b" of this Section shall stay the proceedings in furtherance of the decision appealed and no building permit, or other permit shall be issued until such time as the appeal has been acted on as set forth in this Section.

7166

- e. Forwarding of Record. On the filing of an appeal, the Director shall transfer to the Secretary of the Planning Commission the subject documents and papers on file pertinent to the decision, together with a report of the decision.
- f. Public Hearing. The Planning Commission shall hold a public hearing on the appeal, scheduled and noticed as required by Section 7603 and 7605, respectively.
- g. Decision and Notice. Following the hearing on an appeal, the Planning Commission may sustain the decision of the Director; or may approve or modify the site plan subject to specified conditions it imposes pursuant to Section 7164; or may revoke or deny the Site Plan, as is appropriate. The Planning Commission shall adopt findings which specify all facts relied upon in reaching its decision and their relation to the requirements of Section 7160, and which state the reasons for any conditions imposed by it; provided, however, findings shall be deemed waived unless expressly requested in writing by the applicant or appellant at the time of the hearing on the appeal and prior to decision by the authority. Notice of the decision of the authority together with a copy of any findings adopted by said authority shall be mailed to the appellant and applicant, or to both if they are different parties, and a copy thereof shall be attached to the file in the manner and said file returned to the Director.
- h. Effective Date. The decision of the Planning Commission shall be final and effective immediately except as follows:
 - 1. The decision on a Site Plan filed as a requirement of a Specific Plan may be appealed to the Board of Supervisors in the same manner as a decision of the Planning Commission on a Major Use Permit is appealed.
 - 2. When the Director's decision and the decision of the Planning Commission are not the same, a Site Plan filed as a requirement of a Specific Plan shall be forwarded to the Board of Supervisors for final action.
 - 3. Where an appeal of an environmental determination is filed, the procedures specified in Chapter 4 (commencing with Section 86.401 of Division 6 of Title 8 of the San Diego County Code shall be followed.

(Amended by Ord. No. 5329 (N.S.) adopted 12-13-79)

(Amended by Ord. No. 5786 (N.S.) adopted 6-4-80)

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 6543 (N.S.) adopted 3-2-83)

(Amended by Ord. No. 6781 (N.S.) adopted 5-16-84)

(Amended by Ord. No. 7979 (N.S.) adopted 10-02-91)

(Amended by Ord. No. 8199 (N.S.) adopted 1-13-93)

(Amended by Ord. No. 8236 (N.S.) adopted 5-5-93)

(Amended by Ord. No. 9548 (N.S.) adopted 4-9-03)

7168 EXPIRATION AND EXTENSION.

- a. Any approval of a Site Plan shall expire within two years of such approval except where construction or use of the property in reliance on such Site Plan approval has commenced prior to its expiration. Any Minor Deviation pursuant to Section 7609, or any modification pursuant to Section 7169, shall not extend the expiration and extension dates otherwise specified in this section.
- b. If prior to the expiration of such Site Plan the applicant files a written application with the Department of Planning and Land Use for an extension of time, the period within which construction or use of the property in reliance on the Site Plan must be commenced, may be extended by the Director at any time within 90 days of the date of expiration. The Director may grant one or more such extensions not to exceed a total of 12 months, subject to specified conditions and upon a finding that unusual circumstances have delayed such completion, creating a substantial hardship on the applicant.
- c. Notwithstanding the above, if the Site Plan is issued to satisfy a condition of approval of a subdivision map pursuant to the County Subdivision Ordinance, the Site Plan shall remain in full force and effect for the duration of the tentative approval for that subdivision map, and, if the subdivision map does not receive final approval, expire upon expiration of the tentative approval. If the subdivision map receives final approval, the Site Plan shall expire one year after recordation of the Final or Parcel Map unless construction and/or use of the property in reliance of the Site Plan has commenced prior to its expiration; provided, however, that the period within which such construction and/or use must be commenced may be extended as provided by Section 7168.

(Amended by Ord. No. 6268 (N.S.) adopted 4-14-82)

(Amended by Ord. No. 6924 (N.S.) adopted 2-20-85)

(Amended by Ord. No. 8236 (N.S.) adopted 5-5-93)

7169 APPLICATION FOR MODIFICATION OF A SITE PLAN

- a. Any person holding an approved Site Plan may apply for a modification. The modification of a Site Plan may include modification of the physical improvements shown on the Site Plan itself or the waiver or alteration of conditions imposed pursuant to Section 7164. Sections 7157 through 7166, inclusive, shall apply to the disposition of an application for the modification of a Site Plan.
- b. In the event the requested modification relates to a condition which was initially imposed by action of an appellate body, the authority having jurisdiction over such modification shall consider the following:
 - 1. Reason(s) why subject condition was initially imposed.

2. Reason(s) why subject condition should be retained, modified or waived.
3. Effect of modification or waiver upon reason(s) condition was initially imposed.
4. Any related impact, direct or indirect, which the requested modification or waiver would have on subject property or surrounding properties.
5. Alternative measures proposed to mitigate deleterious impacts, if any, caused by the requested modification.

(Added by Ord. No. 8236 (N.S.) adopted 5-5-93)

7170 RELATION TO USE PERMIT, VARIANCE, AND ZONING ORDINANCE AMENDMENT. When a development proposal subject to Site Plan review is submitted concurrently with an application for a subdivision, use permit, variance, or an amendment of the Zoning Ordinance, the Site Plan review shall be under the jurisdiction of the officer or body having jurisdiction over the subdivision, Use Permit, Variance, or amendment application and shall be conducted concurrently with any review required thereby.

(Amended by Ord. No. 7935 (N.S.) adopted 6-19-91)

7172 REVOCATION OR MODIFICATION OF SITE PLAN APPROVAL FOR CAUSE. A Site Plan may be revoked or modified for cause as provided by the provisions of this section. For purposes of this section, the modification of a Site Plan may include the modification of the terms of the Site Plan itself or the waiver, alteration, or imposition of new conditions pursuant to Section 7164.

- a. Ground for Revocation or Modification. A Site Plan may be revoked or modified pursuant to the provisions of this section upon a finding of any one or more of the following grounds:
 1. That such Site Plan was obtained or extended by fraud.
 2. That one or more of the conditions upon which such Site Plan was granted have been violated.
 3. That the use for which the Site Plan was granted is so conducted as to be detrimental to the public health or safety, or as to be a nuisance.
 4. That construction on the subject property is not in conformance with the Site Plan or other applicable requirements.

- b. **Notification.** The Director shall notify the owner of the property of his action in the same manner as specified in the Building Code for revocation of a building permit, or by written notice to the owner of the subject property as shown on the latest assessment roll or as indicated by later information available to the Director.
- c. **Appeal.** Revocation or modification of a Site Plan may be appealed pursuant to Section 7166.

(Amended by Ord. No. 5786 (N.S.) adopted 6-4-80)

7174 AUTOMATIC REVOCATION OF SITE PLAN APPROVAL.

If a Site Plan is approved or modified subject to one or more conditions, such Site Plan shall cease to be valid, and all rights and privileges granted thereby shall lapse, notwithstanding any other provisions of the Zoning Ordinance to the contrary, whenever there becomes final any judgement of a court of competent jurisdiction declaring one or more of such conditions to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation of one or more of such conditions.

ADMINISTRATIVE APPEAL PROCEDURE.

7200 TITLE AND PURPOSE.

The provisions of Sections 7200 through 7249 shall be known as the Administrative Appeal Procedure. The purpose of these provisions is to prescribe the procedure by which an appeal may be taken from a decision of the Director made pursuant to the administration of the Zoning Ordinance. An appeal is not authorized by this section where a decision of the Director or other administrative official is otherwise specified as a final decision.

(Amended by Ord. No. 8236 (N.S.) adopted 5-5-93)

(Amended by Ord. No. 9690 (N.S.) adopted 12-15-04)

7201 APPLICATION.

An application for an Administrative Appeal shall be made as follows:

- a. **Persons Eligible.** The following persons shall be eligible to file an administrative appeal:
 1. A person having an interest in the property that is the subject of the decision being appealed (hereinafter subject property).
 2. A person having an interest in property located within 300 feet of the exterior boundaries of the subject property.
 3. A person not having an interest in property located within 300 feet from the exterior boundaries of the subject property, who after written petition request to the Planning Commission receives permission to file an appeal. The decision of the Planning Commission on a petition requesting for permission to appeal shall be made without hearing and shall be final.
 4. A County Officer, Board, Commission, or other County body other than the authority having jurisdiction over the appeal.
- b. **Timeliness.** An Administrative Appeal, or a written request for permission to appeal pursuant to Section 7201.a.3, shall be filed within 10 days of the date on which the decision being appealed was rendered.
- c. **Required Documents.** An appeal shall be accompanied by a document setting forth the grounds upon which the appellant asserts there was an error or abuse of discretion.
- d. **Form, Filing, and Fee.** An appeal of an administrative decision shall be made on the prescribed form and shall be filed with the Planning Commission, accompanied by the fee referenced in Section 7602.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 7979 (N.S.) adopted 10-02-91)

7202 EFFECT OF FILING THE APPEAL.

An appeal of an administrative decision or written request for permission to appeal pursuant to Section 7201.a.3, within the time specified in Section 7201 shall stay all proceedings in furtherance of the decision appealed and no building permit, license, or other permit that is the subject of the appeal, shall be issued until such time as the appeal has been acted on as set forth in Section 7205, or until permission to appeal has been denied. However, if the Officer whose decision is being appealed certifies to the Planning Commission that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, such proceedings shall not be stayed except by a restraining order which may be granted by the Planning Commission or by a court having jurisdiction, after notice to the officer whose decision is being appealed and due cause is shown.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

7203 FORWARDING OF RECORD.

On the filing of an administrative appeal, the officer or official whose decision is being appealed shall transfer to the Secretary of the Planning Commission the subject documents and papers on file pertinent to his decision, together with his report on the decision.

7204 PUBLIC HEARING.

The Planning Commission shall hold a public hearing on all administrative appeals, scheduled and noticed as required by Sections 7603 and 7605, respectively.

7205 DECISION AND NOTICE.

Following the hearing on an appeal, the Planning Commission may either sustain the decision being appealed or render such new decision as it considers appropriate. Notice of the decision of the Planning Commission shall be mailed to the appellant and a copy thereof shall be attached to the record forwarded under Section 7203 and this record shall be returned to the forwarding party.

7206 EFFECTIVE DATE.

Subject to provisions of Chapter 4 (commencing with Section 86.401) of Division 6 of Title 8 of the San Diego County Code, relating to appeals of environmental determinations, the decision of the Planning Commission on an Administrative Appeal shall be final and effective immediately.

(Amended by Ord. No. 9548 (N.S.) adopted 4-9-03)

USE PERMIT PROCEDURE**7350 INTENT AND PURPOSE.**

The provisions of Section 7350 through Section 7399 shall be known as the Use Permit Procedure. A use permit may be granted to provide for the accommodation of land uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings, through review and, where necessary, the imposition of special conditions of approval.

7351 APPLICABILITY.

The use permit procedure shall be applied as required by The Zoning Ordinance, the General Plan, a Specific Plan, Tentative Subdivision Map, Tentative Parcel Map, Open Space Easement, or other discretionary development approval.
(Added by Ord. No. 6924 (N.S.) adopted 2-20-85)

7352 CLASSIFICATION OF USE PERMITS AND ORIGINAL JURISDICTION.

Use Permits shall be classified and original jurisdiction exercised over them as follows, except as otherwise provided in Sections 7376 and 7378:

- a. Major Use Permit. Applications for granting or modifying the conditions of a permit for one or more uses, structures or actions, any one of which requires a Major Use Permit, shall require Major Use Permits and shall be under the original jurisdiction of the Planning Commission, except that Major Use Permits which are not within the Current Urban Development Area as shown by the Regional Land Use Element and propose connection to the Rancho San Diego Interceptor sewer line shall be under the original jurisdiction of the Board of Supervisors with the Planning Commission making a report to the Board of Supervisors.
- b. Minor Use Permit. Application for granting or modifying the conditions of a permit for any use, structure, or action requiring a Minor Use Permit shall be under the original jurisdiction of the Director, except that applications for Minor Use Permits filed concurrently with tentative subdivision maps, reclassifications or Major Use Permits shall be under the jurisdiction of the body having jurisdiction over the tentative subdivision maps, reclassifications and Major Use Permits. Any use allowed by a Minor Use Permit may be allowed by a Major Use Permit.

- c. **Concurrent Use Permit.** Applications for granting or modifying the conditions of a use permit filed concurrently with an application requesting amendment of the Zoning Ordinance applicable to the land which is the subject of the use permit application shall be under the original jurisdiction of the Planning Commission. Applications for granting or modifying the conditions of a use permit filed concurrently with any other application under the original jurisdiction of the Board of Supervisors shall be under the original jurisdiction of the Board of Supervisors, and shall receive a recommendation from the Planning Commission prior to action by the Board of Supervisors.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 6031 (N.S.) adopted 4-22-81)
(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)
(Amended by Ord. No. 6543 (N.S.) adopted 3-2-83)
(Amended by Ord. No. 6761 (N.S.) adopted 4-25-84)
(Amended by Ord. No. 6783 (N.S.) adopted 5-16-84)
(Amended by Ord. No. 7313 (N.S.) adopted 6-2-87)
(Amended by Ord. No. 8157 (N.S.) adopted 10-14-92)
(Amended by Ord. No. 8166 (N.S.) adopted 10-21-92)
(Amended by Ord. No. 8200 (N.S.) adopted 1-13-93)
(Amended by Ord. No. 9549 (N.S.) adopted 4-30-03)
(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7354 APPLICATION FOR THE GRANTING OF A USE PERMIT.
An application for the granting of a use permit shall be made as follows:

- a. Persons Eligible. The following persons shall be eligible to apply for the granting of a use permit.
 1. A property owner.
 2. A lessee upon written approval of the property owner.
 3. A person authorized to exercise the power of eminent domain.

- b. Required Documents. An application for the granting of a use permit shall be accompanied by the following documents:
 1. A list of the names of all persons having an interest in the application as well as the names of all persons having any ownership interest in the property involved. If any person identified pursuant to this provision is a corporation or partnership, the names of all persons owning more than 10 percent of the shares in the corporation or owning any partnership interest in the partnership shall be listed. If any person identified pursuant to this provision is a non-profit organization or trust, the names of all persons serving as directors of the non-profit organization or as beneficiaries, trustees and trustors of the trust shall be listed.
 2. Complete plans (including a plot plan) and description of the property involved and the proposed use permit. If the use permit will cover only a portion or portions of a lot or parcel, the plot plan shall include a measurable delineation of the area to which the use permit shall apply. That area shall include all land necessary for the proposed use, together with any open space, non-development areas, or other buffer areas which are necessary to enable making the required findings for use permit approval.
 3. Satisfactory evidence of the ability and intention of the applicant to proceed with actual construction work in accordance with the requested use permit within 6 months after it is granted.
 4. The appropriate environmental impact review document, as provided by Section 7610.
 5. In the case of an application for a Mobilehome Park to be pursuant to the Regional Land Use Element Policy 3.8, evidence satisfactory to the Director that the authorization for filing has been obtained as required by any applicable Board Policy.

- c. Application Form, Filing and Fee. An application for the granting or modifying of a use permit shall be made on the prescribed form and shall be filed with whoever has jurisdiction as provided by Section 7352, and shall be accompanied by the fee referenced in Section 7602.

(Amended by Ord. No. 6924 (N.S.) adopted 2-20-85)
 (Amended by Ord. No. 7048 (N.S.) adopted 10-09-85)
 (Amended by Ord. No. 9569 (N.S.) adopted 7-09-03)

7355

7355 MAJOR USE PERMIT REVIEW IN COMMUNITY OR SUBREGIONAL PLAN AREAS WITH COMMUNITY DESIGN REVIEW PROGRAMS.

In community or subregional plan areas with community design review programs, applications for major use permits or major use permit modifications, for the following uses, shall be referred to the appropriate Community Design Review Board for advisory design review recommendation:

Planned developments; standard mobilehome parks; mini-mobilehome parks; religious assembly; administrative services; clinic services; community recreation facilities; cultural exhibits and library services; group care; child care centers; lodge, fraternal and civic assembly; and major impact services and utilities.

(Added by Ord. No. 7935 (N.S.) adopted 6-19-91)

7356 HEARING AND NOTICE.

All applications for granting or modifying a use permit and all actions to revoke or modify a use permit shall be heard at a public hearing scheduled and noticed as required by Section 7603, and 7605, respectively.

7357 EFFECT OF USE PERMIT ON OTHER USE OF THE PROPERTY

The granting of a use permit does not limit or preclude the establishment or operation of any uses on the remainder of the lot(s) or parcel(s) outside the boundaries of the use permit as delineated pursuant to Section 7354.b.2. For the portion of the parcel covered by the use permit, no use shall be allowed within the use permit boundary other than those specified in the use permit. No additional uses, by right or conditionally permitted, shall be allowed within the use permit area without modification of the permit. If, subsequent to the granting of a use permit, the use(s) authorized thereby become permitted uses through a zoning amendment, the holder of the use permit may request, and the Director may approve, termination of the use permit. Upon such termination, the terms and conditions of the use permit shall no longer be applicable to that property or to the use thereof.

(Added by Ord. No. 9569 (N.S.) adopted 7-09-03)

(Amended by Ord. No. 9935 (N.S.) adopted 4-23-08)

7358 FINDINGS REQUIRED.

Before any use permit except those filed pursuant to Regional Land Use Policy 3.8 may be granted or modified, it shall be found:

- a. That the location, size, design, and operating characteristics of the proposed use will be compatible with adjacent uses, residents, buildings, or structures, with consideration given to:
 1. Harmony in scale, bulk, coverage and density;
 2. The availability of public facilities, services and utilities;
 3. The harmful effect, if any, upon desirable neighborhood character;
 4. The generation of traffic and the capacity and physical character of surrounding streets;

5. The suitability of the site for the type and intensity of use or development which is proposed; and to
 6. Any other relevant impact of the proposed use; and
- b. That the impacts, as described in paragraph "a" of this section, and the location of the proposed use will be consistent with the San Diego County General Plan.
 - c. That the requirements of the California Environmental Quality Act have been complied with.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 5786 (N.S.) adopted 6-4-80)

(Amended by Ord. No. 6924 (N.S.) adopted 2-20-85)

(Amended by Ord. No. 8457 (N.S.) adopted 10-5-94)

7359 FINDINGS REQUIRED FOR PARTICULAR USE PERMITS

- a. Before any use permit pursuant to Regional Land Use Element Policy 3.8 may be granted or modified, in lieu of the findings required by Section 7358, it shall be found that the location, size, and design of the proposed use will not adversely affect or be materially detrimental to the San Diego County General Plan, adjacent uses, residents, buildings, structures, or natural resources, with consideration given to:
 1. The physical suitability of the site for the type and intensity of use or development which is proposed;
 2. The availability of public facilities, services and utilities;
 3. The generation of traffic and the capacity and physical character of surrounding streets;
 4. The harmful effect, if any, upon environmental quality and natural resources;
 5. That the site is within or adjacent to areas planned for urban type development;
 6. That there is socio-economic benefit from the development that will justify the density and extension of urban services; and
 7. The harmful effect, if any, upon existing neighborhood character.
- b. Before any use permit for a "Specific Hazardous Waste Facility Project", as defined in Health and Safety Code Section 25199.1, may be granted or an existing facility modified, in addition to the findings required by Section 7358, it shall be found that the proposed facility is in compliance with the following siting criteria documents of the County of San Diego Hazardous Waste Management Plan 1989-2000, all of which documents are on file with the Clerk of the Board of Supervisors as Exhibit A to Ordinance No. 8093 (N.S.):
 1. Section E, entitled "Local and Regional Facility Needs", of Chapter IX, entitled "Siting and Permitting of Hazardous Waste Facilities" (Pages IX-35 through IX-37);

2. Appendix IX-A, entitled "Siting Criteria For Evaluating Hazardous Waste Management Facility Siting Proposals in San Diego County", and
3. Appendix IX-B, entitled "'General Areas' For Siting Hazardous Waste Management Facilities."

(Added by Ord. No. 6924 (N.S.) adopted 2-20-85)
(Amended by Ord. No. 8093 (N.S) adopted 6-17-92)

7360 DECISION AND NOTICE.

The Board of Supervisors, the Planning Commission, or the Director shall decide and notice matters concerning use permits as follows:

- a. Applications for granting or modifying a use permit. Following the hearing on an application for granting or modifying a use permit, the Board of Supervisors, the Planning Commission, or the Director, whoever has jurisdiction over the application, shall deny the use permit or the requested modification; or shall grant or modify the use permit subject to specified conditions as may be imposed pursuant to Section 7362. Notice of the decision on the application shall be filed in the office of the authority having jurisdiction over the application and a copy of said notice shall be mailed to the applicant at the address shown on the application. Said decision shall become effective as provided in Section 7364.
- b. Action to Revoke or Modify a Use Permit For Cause. Following the hearing in an action to revoke or modify a use permit, as prescribed in Section 7382, the Board of Supervisors, the Planning Commission, or the Director, whoever conducts the hearing, may decide to revoke or to modify the use permit, or may decide to take no action. Notice of the decision on the action shall be filed in the office of the deciding authority and a copy of said notice shall be mailed to the person to whom the use permit was originally granted. Said decision shall become effective as provided in Section 7364.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7362 CONDITIONS.

Use permits may be granted or modified subject to the performance of such conditions, including the provision of required improvements, and for such period of time as the Planning Commission, the Board of Supervisors, or the Director, whoever grants or modifies the use permit, shall deem to be reasonable and necessary or advisable under the circumstances so that the objectives of the Zoning Ordinance shall be achieved. Such conditions shall be imposed and enforced as follows:

- a. Security May Be Required to Insure Performance. In order to insure the performance of conditions imposed concurrent with the granting or modification of a use permit, the applicant may be required to furnish security in the form of money or surety bond in the amount fixed by the authority granting or modifying the use permit. Such security shall be furnished as required by Section 7612.
- b. Provision of Required Improvements. Whenever a use permit is granted or modified subject to the condition that specified improvements be provided by the applicant, such improvements shall be installed by the applicant and approved and accepted by the cognizant County authority, the applicant shall execute an agreement with the cognizant County authority pursuant to Section 7613 to make such improvements, prior to the time or events specified in the permit.
- c. Condition Declared Void. Whenever there becomes final any judgment of a court of competent jurisdiction declaring one or more of the conditions of a use permit to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation of one or more of such conditions, said use permit shall cease to be valid and all rights or privileges granted thereby shall lapse, as provided by Section 7380.

- d. Violation of Condition. Whenever a use permit is granted or modified subject to a condition or conditions, use or enjoyment of the use permit in violation of or without observance of any such condition shall constitute a violation of the Zoning Ordinance and said use permit may be revoked or modified as provided by Section 7382.
- e. Monitoring compliance. Every permittee of a use permit shall allow the Director to conduct periodic inspections of the property for which a use permit has been granted to ensure that the permittee is complying with the use permit conditions. Inspections under this section are in addition to any inspections authorized under Section 7702. As used in this section, "permittee" also means the permittee's employees, agents, tenants, heirs, assignees and successors. The frequency of the periodic inspections shall be at the discretion of the Director, but shall not occur more often than once every twelve months. The Director shall give the permittee written notice at least 24 hours before any inspection under this section. No permittee shall refuse to permit inspection of the property covered by the use permit after the requisite notice has been given. No inspector, however, shall conduct any inspection authorized by this section if permission to inspect is refused. If permission to inspect is refused, the inspector may obtain an inspection warrant pursuant to California Code of Civil Procedure sections 1822.50 et seq. to conduct any inspection authorized by this section. If an inspector determines during a periodic inspection that the permittee is not in compliance with any use permit condition, the Director may authorize follow-up inspections more frequently than once every twelve months until the Director is satisfied that the permittee is complying with all use permit conditions.
- f. Notices under paragraph e. Notices shall either be served personally or by United States mail. Notices served by mail shall allow five business days for delivery.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

(Amended by Ord. No. 9756 (N.S.) adopted 2-1-06)

7363 DEFENSE OF LAWSUITS.

As a condition of approval of a Major Use Permit, Minor Use Permit, use permit modification, or use permit extension for which an application was filed (as defined in Zoning Ordinance Section 1019 b.) before January 3, 2003, the applicant shall: (1) defend, indemnify and hold harmless the County, its agents, officers or employees from any claim, action or proceeding against the County, its agents, officers or employees to attack, set aside, void or annul the major use permit, minor use permit, use permit modification or use permit extension or any of the proceedings, acts or determinations taken, done or made prior to such decision; and (2) reimburse the County, its agents, officers or employees for any court costs and attorney's fees which the County, its agents, officers or employees may be required by a court to pay as a result of such approval. At its sole discretion, the County may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any obligation imposed by this condition. The County shall notify the applicant promptly of any claim or action and cooperate fully in the defense. Each applicant seeking approval of any Major Use Permit, Minor Use Permit, use permit modification, or use permit extension, for which an application was filed (as defined in Zoning Ordinance Section 1019 b.) on or after January 3, 2003, shall be subject to the defense and indemnification provisions found at Chapter 2 (commencing at section 86.201) of Division 6 of Title 8 of the San Diego County Code.

(Added by Ord. No. 7782 (N.S.) adopted 07-25-90)

(Amended by Ord. No. 9517 (N.S.) adopted 12-04-02)

7364 EFFECTIVE DATE.

Decisions of the Planning Commission, or the Director made pursuant to Section 7360 shall become final and effective on the eleventh day following the date of decision unless an appeal of the decision is filed as provided by Section 7366. All decisions of the Board of Supervisors made pursuant to Section 7360 shall be final and effective immediately.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 6761 (N.S.) adopted 4-25-84)

(Amended by Ord. No. 9674 (N.S.) adopted 9-22-04)

7366 APPEAL.

Use permit decisions pursuant to Sections 7360, 7376, 7378 or 7382 may be appealed as follows:

- a. Appeals Authorized.
 1. A Major Use Permit decision of the Planning Commission may be appealed to the Board of Supervisors.
 2. A Minor Use Permit decision of the Director may be appealed to the Planning Commission, except that (a) a decision concerning a Minor Use Permit application filed concurrently with a tentative subdivision map, reclassification or Major Use Permit application may be appealed to the same appeal authority and pursuant to the same procedures as apply to such concurrent application; and (b) a decision concerning a Minor Use Permit for a mini-mobilehome park may be appealed to the Planning Commission; and (c) a decision concerning a Minor Use Permit for a nonconforming use within an adopted Redevelopment Area pursuant to Section 6878 may be appealed to the Board of Supervisors.
 3. A concurrent use permit decision by the Planning Commission may be appealed to the Board of Supervisors.
- b. Resubmittal of Revised Application. If upon appeal an application for a use permit is revised so as to require the submittal of a revised plot plan, all appellate proceedings shall be terminated and the application resubmitted to the authority having original jurisdiction for further consideration and decision. The decision of the revised application may thereafter be appealed as provided in this Section.

- c. **Persons Authorized to Appeal.** No person may appeal except the applicant for the granting or modification of a use permit; a County officer acting pursuant to paragraph "d" of this section; and those persons who protest the granting, revocation, or modification of a use permit either by written protest filed in the office of the Planning Commission, the Planning Environmental Review Board or the Director, whoever has jurisdiction over the use permit, prior to the time of the hearing or consideration of the matter by said authority; or by appearing and protesting the granting, revocation or modification of the use permit at the hearing or consideration of the matter by said authority.
- d. **County Officer May Appeal.** Notwithstanding any other provision of this Ordinance, any County officer, Board, Commission, or other County body, other than the authority having jurisdiction over the appeal, may appeal a decision of the Planning Commission, or the Director made pursuant to Section 7360, without fee.
- e. **Manner and Time of Filing.** An appeal shall be in writing, and shall be filed, in the office of the Planning Commission, or Director, whoever rendered the decision. It shall be filed within ten days following the decision, as provided in Section 7364, and shall be accompanied by the fee referenced in Section 7602.
- f. **Effect of Filing the Appeal.** An appeal of a decision within the time specified in paragraph "e" of this Section shall stay the proceedings and effective date of the decision of the Planning Commission, or Director, as provided by Section 7366, until such time as the appeal has been acted on as hereinafter set forth in the Ordinance.
- g. **Forwarding of Record.** Upon the filing of an appeal, the authority having made the decision being appealed shall transmit to the appeal authority the records concerning the decision.
- h. **Public Hearing.** Following the filing of an appeal, the authority having appellant jurisdiction shall hold a public hearing on the matter scheduled and noticed as required by Sections 7603 and 7605, respectively. The public hearing shall be a hearing de novo and all interested persons may appear and present evidence.

- i. **Decision and Notice.** Following the hearing on an appeal, the authority having appellate jurisdiction may sustain the decision which is being appealed; or may grant or modify the use permit subject to specified conditions it imposes pursuant to Section 7362; or may revoke or deny the use permit, as is appropriate. The authority shall adopt findings, which specify all facts relied upon by it in reaching its decision and their relation to the requirements of Section 7358, and which state the reasons for any conditions imposed by it; provided, however, findings shall be deemed waived unless expressly requested in writing by the applicant or appellant at the time of the hearing on the appeal and prior to decision by the authority. Notice of the decision of the authority together with a copy of any findings adopted by said authority shall be mailed to the appellant and applicant, or to both if they are different parties, and a copy thereof shall be attached to the Planning Commission's, or the Director's file in the matter and said file returned to the Planning Commission, or Director, whoever rendered the decision which was appealed.
- j. **Finality and Effective Date.** Subject to the provisions of Chapter 4 (commencing with Section 86.401) of Division 6 of Title 8 of the San Diego County Code, relating to appeals of environmental determinations, the decision of the authority having jurisdiction over an appeal shall be final, conclusive, and effective immediately.
- k. **No Decision Reached.** Whenever the Board of Supervisors holds a hearing on an appeal from a decision on an application for a use permit, the proceedings shall be governed by the Board of Supervisors' Rules of Procedure and Section 375.13 of the San Diego Administrative Code. Whenever the Planning Commission holds a hearing on an appeal from a decision on an application for a use permit and thereafter fails to reach a decision because a motion on the item failed to carry by the required vote, the secretary of the Commission shall set the matter for a noticed public hearing de novo if such hearing is requested by the Commission. Such request must be made within 30 days of the date when the motion on the item failed to carry. If no such request is made within such period, the decision from which the appeal has been taken shall be deemed sustained.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
 (Amended by Ord. No. 6215 (N.S.) adopted 1-13-82)
 (Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)
 (Amended by Ord. No. 6654 (N.S.) adopted 9-21-83)
 (Amended by Ord. No. 7048 (N.S.) adopted 10-09-85)
 (Amended by Ord. No. 7878 (N.S.) adopted 3-6-91)
 (Amended by Ord. No. 7979 (N.S.) adopted 10-02-91)
 (Amended by Ord. No. 8166 (N.S.) adopted 10-21-92)
 (Amended by Ord. No. 8409 (N.S.) adopted 6-01-94)
 (Amended by Ord. No. 8425 (N.S.) adopted 7-13-94)
 (Amended by Ord. No. 9548 (N.S.) adopted 4-9-03)
 (Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7370

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7370 NUISANCE.

The granting or modification of a use permit shall not authorize or legalize the maintenance of any private or public nuisance.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

7372 DISCONTINUANCE.

Each use permit granted pursuant to these provisions shall expire and become null and void at the expiration of one year after the purpose for which it was granted shall have been discontinued or abandoned.

(Amended by Ord. No. 6467 (N.S.) adopted 11-10-82)

(Amended by Ord. No. 9690 (N.S.) adopted 12-15-04)

7374 EXPIRATION.

Each valid unrevoked and unexpired use permit shall expire and become null and void at the time specified in the permit. If no time is specified, then the use permit shall expire two years after granting unless construction and/or use of the property in reliance on the permit has commenced prior to its expiration; provided, however, that the period within which such construction and/or use must be commenced may be extended as provided by Section 7376.

Notwithstanding the above, if the use permit is issued in conjunction with the approval of a subdivision map pursuant to the County Subdivision Ordinance, the use permit shall remain in full force and effect for the duration of the tentative approval for that subdivision map and, if the subdivision map does not receive final approval, expire upon expiration of the tentative approval. If the subdivision map receives final approval, the use permit shall expire three years after recordation of the final or parcel map unless construction and/or use of the property in reliance of the permit has commenced prior to its expiration; provided, however, that the period within which such construction and/or use must be commenced may be extended as provided by Section 7376 and provided further, that construction complies with zoning regulations in effect at the time of construction.

(Amended by Ord. No. 6155 (N.S.) adopted 9-15-81)

(Amended by Ord. No. 6164 (N.S.) adopted 9-22-81)(Supersedes Ord. No. 6155 (N.S.))

(Amended by Ord. No. 7740 (N.S.) adopted 3-28-90)

(Amended by Ord. No. 8897 (N.S.) adopted 3-18-98)

7376 APPLICATION FOR EXTENSION OF RELIANCE PERIOD OF A USE PERMIT.

- a. If prior to expiration of the use permit, the applicant files a written application for extension, the period within which construction or use of the property in reliance on the use permit must be commenced may be extended by order of the Director, or Planning Commission, whichever has original jurisdiction over said use permit, at any time within 90 days of the date of expiration. An application for such an extension shall be made on the prescribed form, shall be accompanied by the fee referenced in Section 7602, and shall be filed with the authority which has original jurisdiction. The period within which construction and/or use of the property in reliance on a use permit must be commenced may be extended subject to conditions, as provided by Section 7362. Decisions of the Director, or Planning Commission pursuant to this section shall become effective as provided by Section 7364. Decisions of the Director, and Planning Commission may be appealed as provided by Section 7366. All other provisions of the Zoning Ordinance shall apply to an extension granted in accordance with this section.
- b. Notwithstanding the provisions of paragraph "a" above or any other provision of the Zoning Ordinance, upon filing of an application to extend such reliance period for a major use permit for a planned development or lot size averaging in conjunction with an application filed pursuant to the Subdivision Ordinance (San Diego County Code, Section 81.101 et seq.) to extend a tentative map or tentative parcel map, the Director may extend or conditionally extend such reliance period pursuant to the procedure specified in the Subdivision Ordinance for acting upon such map extensions. Sections 7354, 7358, 7362 and 7602, and all other provisions of the Zoning Ordinance not in conflict with said Subdivision Ordinance procedure, shall apply to such action by the Director.

(Amended by Ord. No. 6031 (N.S.) adopted 4-22-81)

(Amended by Ord. No. 6519 (N.S.) adopted 1-26-83. Opr. 3-1-83)

(Amended by Ord. No. 6783 (N.S.) adopted 5-16-84)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

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7378 APPLICATION FOR MODIFICATION OF A USE PERMIT.

- a. Any person holding a use permit may apply for a modification by complying with Section 7354.c. For the purposes of this section, the modification of a use permit may include modification of the terms of the permit itself or the waiver or alteration of conditions imposed pursuant to Section 7362. Sections 7356 through 7366, inclusive, shall apply to the disposition of an application for the modification of a use permit.
- b. Notwithstanding the provisions of paragraph "a" above or any other provision of The Zoning Ordinance, upon the filing of an application to modify a Major Use Permit for a planned development or lot size averaging in conjunction with an application filed pursuant to the Subdivision Ordinance (San Diego County Code, Section 81.101 et seq.) to modify a Tentative Map or Tentative Parcel Map or a resolution approving the same, the Director may modify or conditionally modify such permit pursuant to the procedure specified in the Subdivision Ordinance for acting upon such map modifications. Sections 7354, 7358, 7362 and 7602, and all other provisions of The Zoning Ordinance not in conflict with said Subdivision Ordinance procedure, shall apply to such action by the Director.
- c. In the event the requested modification or waiver relates to a condition which was initially imposed by action of an appellate body, the authority have jurisdiction over such modification or waiver shall consider the following:
 - 1. Reason(s) why subject condition was initially imposed.
 - 2. Reason(s) why subject condition should be modified or waived.
 - 3. Effect of modification or waiver upon reason(s) condition was initially imposed.
 - 4. Any related impact, direct or indirect, which the requested modification or waiver would have on subject property or surrounding properties.
 - 5. Alternative measures proposed to mitigate deleterious impacts, if any, caused by the requested modification or waiver.

(Amended by Ord. No. 6031 (N.S.) adopted 4-22-81)
 (Amended by Ord. No. 7048 (N.S.) adopted 10-09-85)

7380

7380 AUTOMATIC REVOCATION OF A USE PERMIT.

If a use permit is granted or modified subject to one or more conditions, such use permit shall cease to be valid, and all rights or privileges granted thereby shall lapse, notwithstanding any other provisions of The Zoning Ordinance to the contrary, whenever there becomes final any judgement of a court of competent jurisdiction declaring one or more of such conditions to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation of one or more of such conditions.

7382 REVOCATION OR MODIFICATION OF A USE PERMIT FOR CAUSE.

A use permit may be revoked or modified for cause as provided by the provisions of this section. For purposes of this section, the modification of a use permit may include the modification of the terms of the permit itself or the waiver, alteration or imposition of new conditions pursuant to Section 7362.

- a. **Grounds for Revocation or Modification.** A use permit may be revoked or modified pursuant to the provisions of this section upon a finding of any one or more of the following grounds:
 - 1. That such permit was obtained or extended by fraud.
 - 2. That one or more of the conditions upon which such permit was granted have been violated.
 - 3. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare, or safety, or as to be a nuisance.
- b. **Initiation of Action.** An action to revoke or modify a use permit may be initiated by order of the Board of Supervisors, Planning Commission, or the Director, whichever granted, extended or modified the permit, on its own motion or on the request of any County Officer. The Planning Commission may initiate an action to revoke or modify any use permit granted or modified by the Director or the Planning Environmental Review Board, and the Board of Supervisors may initiate an action to revoke or modify any use permit granted by either the Director, Planning Environmental Review Board, Board of Planning and Zoning Appeals or Planning Commission. The order shall set forth grounds for revocation or modification.
- c. **Other Provisions Applicable.** Sections 7356 through 7366, inclusive, shall apply to an action for the revocation or modification of any use permit.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)
(Amended by Ord. No. 7935 (N.S.) adopted 6-19-91)
(Amended by Ord. No. 8425 (N.S.) adopted 7-13-94)
(Amended by Ord. No. 8897 (N.S.) adopted 3-18-98)
(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7384 EXTENSION OF TIME LIMITS.

The time limits prescribed for the Use Permit Procedure may be extended by the Board of Supervisors; or by the Planning Commission, or the Director, as appropriate, upon the consent of the applicant or appellant.

(Amended by Ord. No. 6519 (N.S.) adopted 1-26-83)

(Amended by Ord. No. 8425 (N.S.) adopted 7-13-94)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7386 REAPPLICATION.

No application for the granting or modifying of a use permit which has been denied shall be filed earlier than one year after the date such denial becomes effective, unless specific permission to do so has been granted as follows:

- a. Denial by Director. If the Director has denied the use permit, permission to reapply may be granted by the Director, Planning Commission or the Board of Supervisors.
- b. Denial by the Planning Environmental Review Board. If the Planning Environmental Review Board has denied the use permit, permission to reapply may be granted by the Planning Commission or the Board of Supervisors.
- c. Denial by the Planning Commission. If the Planning Commission has denied the use permit, permission to reapply may be granted by the Planning Commission or the Board of Supervisors.
- d. Denial by the Board. If the Board of Supervisors has denied the use permit, permission to reapply may be granted by the Board of Supervisors.

(Amended by Ord. No. 6268 (N.S.) adopted 4-14-82)

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 7306 (N.S.) adopted 5-20-87)

(Amended by Ord. No. 8425 (N.S.) adopted 7-13-94)

(Amended by Ord. No. 8897 (N.S.) adopted 3-18-98)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7388

7388 USE PERMITS ISSUED PURSUANT TO COUNTY CODE.

All use permits in the formerly unzoned areas of the County, granted pursuant to Title 8, Division 4 and Title 8, Division 5, Chapter 2 of the San Diego County Code of Regulatory Ordinances, shall be referred to as Major Use Permits and shall be deemed to have been issued pursuant to the provisions of The Zoning Ordinance. Such permits shall be treated for all purposes as if they are Major Use Permits under the jurisdiction of the Planning Commission and which had been granted by the Planning Commission pursuant to Section 7360 of The Zoning Ordinance and shall be subject to all of the provisions of The Zoning Ordinance which apply to the administration of such Major Use Permits.

ZONING ORDINANCE AMENDMENT PROCEDURE**7500 TITLE AND PURPOSE.**

The provision of Section 7500 through 7549, inclusive, shall be known as the Zoning Ordinance Amendment Procedure. The purpose of these provisions is to prescribe the procedure by which changes may be made in the text of the Zoning Ordinance and the application thereof to land within San Diego County. This procedure shall apply to all requests to change any property from one zone to another or to impose any regulation not theretofore imposed or to remove or modify any such regulation theretofore imposed.

7501 WHEN ZONING ORDINANCE SHALL BE AMENDED.

The Zoning Ordinance shall be amended as necessary to implement the San Diego County General Plan and to ensure consistency of the Zoning Ordinance with the General Plan, as provided by Sections 1001 and 1002, respectively.

7502 JURISDICTION.

The Board of Supervisors shall have jurisdiction with respect to granting, denying, or modifying requests to amend the Zoning Ordinance. The Planning Commission shall make a recommendation to the Board of Supervisors on all requests to amend the Zoning Ordinance.

7503 REQUESTS TO AMEND THE ZONING ORDINANCE.

Requests to amend the Zoning Ordinance may be initiated by:

- a. The application of a property owner or the agent of such owner seeking an amendment to the Zoning Ordinance as applied to his property.
- b. A person authorized to exercise the power of eminent domain.
- c. The order of the Board of Supervisors.
- d. The order of the Planning Commission.
- e. The Director of Planning and Land Use.

(Amended by Ord. No. 8250 (N.S.) adopted 6-2-93)

7505 APPLICATION OF PROPERTY OWNER.

The application of a property owner or the agent of such owner requesting an amendment to the Zoning Ordinance as applied to his property shall be made as follows:

- a. **Application Form, Filing, and Fee.** An application requesting an amendment of the Zoning Ordinance shall be made on the prescribed form, shall be filed with the Planning Commission, and shall be accompanied by the fee referenced in Section 7602.
- b. **Required Documents.** An application requesting an amendment to the Zoning Ordinance shall be accompanied by the following documents:
 1. A list of the names of all persons having an interest in the application as well as the names of all persons having any ownership interest in the property involved. If any person identified pursuant to this provision is a corporation or a partnership, the names of all persons owning more than 10 percent of the shares in the corporation or owning any partnership interest in the partnership shall be listed. If any person identified pursuant to this provision is a non-profit organization or trust, the names of all persons serving as directors of the non-profit organization or as beneficiaries, trustees and trustors of the trust shall be listed.
 2. Complete description of the requested amendment.
 3. The appropriate environmental impact review document, as provided by Section 7610.
- c. **Additional Documents Required for Mobilehome Parks.**
 1. An application requesting an amendment to the Zoning Ordinance on property containing an existing mobilehome park and zoned for exclusive mobilehome park usage by either the RMH Use Regulation or the "A" Building Type Designator shall request provisional reclassification pursuant to Section 7509 and contain the following information and/or documents specified herein:
 - i. The number of spaces within the existing park.
 - ii. A list of names and addresses of all tenants within the park for use by the Department in giving notice.
 - iii. The date of manufacture and size of each mobilehome and the current replacement value affected by the relocation. The replacement value shall be determined in the same manner as used by standard insurance replacement criteria.
 - iv. The estimated cost of relocation of each mobilehome affected by the proposed change of use.

- v. The length of tenancy by each tenant.
 - vi. The estimated income, age and number of tenants affected by the proposed change of use.
 - vii. The number of alternative sites available to the tenants including written commitments from the owners of those parks to accept the relocated units and tenants.
 - viii. A time table for vacating the existing park.
 - ix. A statement and concept plan indicating what use the park site is intended to accommodate.
 - x. Evidence satisfactory to the Director that mutually acceptable agreements have been reached on the part of the park owner and all tenants to vacate the park commencing upon provisional reclassification. Such evidence may include, but, is not limited to the following:
 - (1) Written agreements to relocate mobilehomes; and
 - (2) Assistance for low and moderate income tenants in the form of payment by the park owner of 80%, up to a maximum of \$2,000, of the cost of relocating the mobilehome to another mobilehome park within 100 miles.
 - xi. If such evidence specified in "x" above is not included in the application, then the Director of Planning and Land Use shall recommend reasonable conditions to mitigate any adverse impacts on tenants of the mobilehome park to the Planning Commission and Board of Supervisors to be included as a condition of the provisional reclassification of the property.
2. Notwithstanding the provisions of Section 7505(c)(1), a park owner who elected to give a 5-year notice to vacate may file an application for reclassification or provisional reclassification if evidence is provided that the following provisions were met or the following provisions must be completed before the provisional reclassification is removed:
- i. The mobilehome park owner shall provide evidence that a notice to vacate pursuant to Section 798.56(f) of the Civil Code has been issued and

- ii. Informed each tenant of the rent and location of a number of available spaces equal to the number of occupied units to be displaced, and
- iii. Assisted each tenant in relocating the tenant's mobilehome to any new space within 100 miles in accordance with the following schedule:

| <u>IF TENANT VACATES BEFORE END OF</u> | <u>PORTION OF EXPENSES PAID BY OWNER</u> | <u>UP TO A MAXIMUM OF</u> |
|--|--|-------------------------------|
| 1st year | 80% | \$2,000 |
| 2nd year | 60% | 1,500 |
| 3rd year | 40% | 1,000 |
| 4th year | 20% | 500 |
| 5th year | -0- | -0- |

(Added by Ord. No. 5905 (N.S.) adopted 10-8-80)

7506 PLANNING COMMISSION ACTION.

- a. Public Hearing. Upon the initiation of a request to amend the Zoning Ordinance pursuant to Section 7503, the Planning Commission shall hold a public hearing in all cases where they are required to do so by the California Government Code. In other cases, the Planning Commission may hold such public hearings as it deems appropriate. Public hearing shall be scheduled and noticed as required by Sections 7603 and 7605, respectively.
- b. Commission Recommendation. Following the public hearings on a requested amendment, or if no hearing is held, within 40 days from the date of the request, the Planning Commission shall render its decision in the form of a written recommendation to the Board of Supervisors. This recommendation shall include the reasons for the recommendation and the relationship of the requested amendment to the San Diego County General Plan.
- c. Notice of Recommendation. The recommendation of the Planning Commission shall be transmitted to the party requesting the amendment of the Zoning Ordinance.
- d. Appeal of Unfavorable Recommendation. A recommendation by the Planning Commission on an amendment request, which proposes to change property from one zone to another and which recommends that the request be denied and makes no alternative recommendation, may be appealed by written application to the Board of Supervisors within 40 days after the Planning Commission transmits its recommendation to the Board.

7507 BOARD OF SUPERVISORS ACTION.

- a. Public Hearing. Upon receipt of the recommendation of the Planning Commission, the Board of Supervisors shall hold a public hearing on the requested amendment; provided, however, that if the requested amendment to the Zoning Ordinance proposes to change property from one zone classification to another and the Planning Commission has recommended denial of the request, the Board shall not be required to take any further action unless the recommendation of the Planning Commission has been appealed as provided by Section 7506.d. Public hearings held pursuant to this section shall be scheduled and noticed as required by Sections 7603 and 7605, respectively.
- b. Decision. Following the public hearing on an amendment request, the Board of Supervisors may order the adoption of the requested amendment, deny the requested amendment, or order the adoption of the requested amendment with modifications; provided that any modification of the requested amendment not previously considered by the Planning Commission shall be first referred to the Planning Commission for report and recommendation, but the Commission shall not be required to hold a public hearing thereon. The decision of the Board of Supervisors on a request to amend the Zoning Ordinance shall be final and conclusive.
- c. Notice of Decision of Board of Supervisors. Within 10 days following a decision by the Board of Supervisor ordering the adoption of the requested amendment, denying the requested amendment, or ordering the adoption of the requested amendment with modifications, the Clerk of the Board shall give notice of the decision to the party requesting amendment of the Zoning Ordinance.
- d. No Decision by Board of Supervisors. Whenever the Board of Supervisors takes no action on a request to amend the Zoning Ordinance because a motion on the item failed to carry by the required affirmative vote, the Clerk of the Board of Supervisors shall set the matter for a noticed public hearing de novo if such hearing is requested by the Board of Supervisors. Such a request must be made within 30 days of the date on which the motion failed to carry. If no request is made within this period, the request for amendment of the Zoning Ordinance shall be deemed denied.

7509 PROVISIONAL RECLASSIFICATION.

In the consideration of a proposed amendment to the Zoning Ordinance which requests changing the zone classification applicable to any property, it may be determined that the public health, safety and welfare

or the timely implementation of the San Diego County General Plan, require that provision be made for relocation of any occupants and the orderly subdivision of the subject property and/or that provision be made for adequate streets, drainage facilities, grading, sewers, utilities and other improvements, in order that the subject property and the area within which it is located may be properly developed in accordance with the different or additional uses to be permitted by the requested change of the zone classification. In such cases, the subject property may be provisionally reclassified as requested by the proposed amendment and the following procedures shall then apply.

- a. Application of the Provisional Reclassification Designator. When property is provisionally reclassified, the ordinance changing the zone reclassification of the subject property shall reflect this fact and shall direct that the the provisional reclassification designator "(P)" be placed on the official zone map immediately preceding the use regulation of the zone classification to which the subject property has been changed; for example: (P)RU10.
- b. Restrictions of Property While Under Provisional Reclassification. While property is provisionally reclassified, it shall be used only as permitted by the zone classification applicable to the property prior to its provisional reclassification. No permits shall be issued, no buildings or structures shall be constructed thereon, and no use of the property shall be made in reliance on the provisional classification of the property until such time as this status is removed as provided by paragraph "c" of this section.
- c. Removal of Provisional Reclassification. Provisional reclassification shall be removed when the following has occurred:
 1. Recordation of a Final Map of the property or portion thereof in accordance with the provisions of the Subdivision Map Act of the California Government Code and the Subdivision Ordinance of the San Diego County Code; or
 2. Determination by the Director upon written request of the applicant that because subject property was an existing mobilehome park at the time the reclassification was filed and the applicant submitted certain information and/or documents

pursuant to Section 7505, that said information and/or documents have been executed to the satisfaction of the Director and that field inspection of subject property has verified that no mobilehomes are sited thereon.

Thereafter, the property or portion thereof included in the Final Map or mobilehome park shall no longer be under provisional reclassification and the restrictions set forth in paragraph "b" of this section shall be disregarded as to such property.

- d. Similarity Between Boundary of the Area Provisionally Reclassified and the Area Included in the Final Map. The Final Map shall include all the property subject to provisional reclassification, unless the Board of Supervisors, after report and recommendation from the Planning Commission, by resolution authorizes the recording of two or more Final Maps, each covering a portion of the property, in which case the Board may prescribe the portion of the property to be included in each Final Map and the sequence of their recordation. The boundary of the Final Map, or the composite boundary of the Final Maps when more than one Final Map is filed, shall be inspected to determine if it is identical with the boundary of the Final Map, or the last Final Map. When discrepancies exist between the boundaries, other than those which are adjusted pursuant to Section 6015.d, the person submitting the Final Map shall request an amendment to the Zoning Ordinance correcting any discrepancies before the Final Map may be approved by the Board of Supervisors. This requested amendment shall be initiated as provided by the Zoning Ordinance Amendment Procedure, except that the required filing fee shall be one-half the fee required by Section 7505.a.
- e. Revocation of Provisional Reclassification. Whenever property remains under provisional reclassification for more than two years, the Planning Commission shall investigate the circumstances therefor, and when deemed appropriate, initiate an amendment to the Zoning Ordinance to change the zone reclassification of the property to its former classification or to some other appropriate classification. Nothing herein shall be construed to prevent the Commission or Board of Supervisors from initiating at any time an amendment to the Zoning Ordinance to change the zone reclassification of provisionally reclassified property to its former classification or to some other appropriate classification; provided, however, that provisionally rezoned property for which a

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Tentative Map has been filed may be restored to its former classification or to any other classification only after the expiration of said Tentative Map.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 5905 (N.S.) adopted 10-8-80)

HISTORIC/ARCHAEOLOGICAL LANDMARK AND DISTRICT DESIGNATION PROCEDURE

7550 TITLE.

The provisions of Sections 7550 through 7599, inclusive, shall be known as the Historic/Archaeological Landmark and District Designation Procedure. The purpose of these provisions is to establish a procedure for the designation of historic and/or archaeological landmarks and districts.

(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)
(Amended by Ord. No. 8114 (N.S.) adopted 7-29-92)

7553 INITIATION.

The Board of Supervisors may initiate the procedure to designate historic/archaeological landmarks and districts as follows:

- a. On its own motion.
- b. On the request of any County officer or body such as the County Historic Site Board.
- c. On the application of any person filed with the Director.

(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)
(Amended by Ord. No. 7101 (N.S.) adopted 3-12-86)
(Amended by Ord. No. 8114 (N.S.) adopted 7-29-92)

7556 APPLICATION REQUIREMENTS.

- a. All requests and applications for designating landmarks or districts shall be filed with the Director on a form prescribed by the Director and accompanied by evidence as to the historic, cultural, or architectural and/or archaeological values of the building(s), structure(s) or site(s) that merit their designation as a landmark or district.
- b. No fee is required for an application for designation as a landmark or district.

(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)
(Amended by Ord. No. 7101 (N.S.) adopted 3-12-86)
(Amended by Ord. No. 8114 (N.S.) adopted 7-29-92)

7559 REVIEW OF APPLICATION.

The Director shall review each application approved by the Historic Site Board and submit it to the Planning Commission with a report and recommendation along with the recommendation of the Historic Site Board. If the Planning Commission accepts the finding of the Historic Site Board that the nominated

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Landmark or District qualifies under the Site Listing Guidelines as a Historic and/or Archaeological Landmark or District, the Planning Commission shall initiate public hearings pursuant to Section 7603 and 7605 of this ordinance to reclassify the subject property or a portion thereof to apply the Historic/Archaeological Landmark or District Area "H" or Specific Historic District "J" designator which will subject the property to the Historic/Archaeological Landmark and District Regulations.

(Added by Ord. No. 5786 (N.S.) adopted 6-04-80)
(Amended by Ord. No. 7101 (N.S.) adopted 3-12-86)
(Amended by Ord. No. 7576 (N.S.) adopted 1-11-89)
(Amended by Ord. No. 8114 (N.S.) adopted 7-29-92)

7562 REQUIRED NOTICE: PUBLIC HEARING OPTIONAL
(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)
(Deleted by Ord. No. 7101 (N.S.) adopted 3-12-86)

7565 BOARD OF SUPERVISORS ACTION.

The Board of Supervisors shall have jurisdiction over designation of historic and/or archaeological landmarks or districts. Upon recommendation of the Planning Commission, if the Board of Supervisors concurs with the findings of the Historic Site Board and Planning Commission that the nominated landmark or district qualifies under the Site Listing Guidelines and finds that the building, structure, site or collection of buildings or sites has historic, cultural, archaeological and/or architectural values significant in the history and/or prehistory of the County, the Board of Supervisors may approve reclassification of subject property to apply the Historic/Archaeological Landmark or District Regulations ("H" or "J" designator).

Notwithstanding the above, the Historic Site Board and/or the Planning Commission may recommend, and the Board of Supervisors may act, to designate a honorary historic or archaeological landmark or district, by proclamation. Such actions are honorary designations only, and these sites are not subject to the provisions of Section 5700 et. seq., Historic/Archaeological Landmark and District Area Regulations.

(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)
(Amended by Ord. No. 7101 (N.S.) adopted 3-12-86)
(Amended by Ord. No. 7576 (N.S.) adopted 1-11-89)
(Amended by Ord. No. 8114 (N.S.) adopted 7-29-92)

7568 ACTION FOLLOWING INITIATION OF HEARINGS.
(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)
(Amended by Ord. No. 7101 (N.S.) adopted 3-12-86)
(Deleted by Ord. No. 7576 (N.S.) adopted 1-11-89)

7580 APPLICATION FOR REVOCATION OF DESIGNATION OF A LANDMARK OR DISTRICT. An application for revocation of designation of a historic and/or archaeological landmark or district shall be made as follows:

- a. **Person eligible.** The following persons are eligible to apply for the revocation of designation of a landmark or district:
 - 1. The property owner.
 - 2. A lessee upon written approval of the property owner.
 - 3. A person authorized to exercise the power of eminent domain.

- b. **Required documents.** An application for the revocation of a designation of a landmark or district shall be accompanied by the following documents:
 - 1. A list of the names of all persons having an interest in the application as well as the names of all persons having any ownership interest in the property involved. If any person identified pursuant to this provision is a corporation or partnership, the names of all persons owning more than 10 percent of the shares of the corporation or owning any partnership interest in the partnership shall be listed. If any person identified pursuant to this provision is a non-profit organization or trust, the names of all persons serving as directors of the non-profit organization or as beneficiaries, trustees and trustors of the trust shall be listed.
 - 2. Evidence to support the findings required by Section 7586.
 - 3. The appropriate environmental impact review document, as provided by Section 7610.

- c. **Application Form, Filing and Fee.** An application for the revocation of designation of a historic and/or archaeological landmark or district shall be made on the prescribed form, shall be filed with the Planning Commission, and shall be accompanied by the fee fixed pursuant to Section 7602.

(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)
 (Amended by Ord. No. 8114 (N.S.) adopted 7-29-92)

7583 NOTICE AND HEARINGS.

- a. **Required Hearings.** All applications for revocation of designation of a historic and/or archaeological landmark or district shall be heard at a public hearing scheduled and noticed in the same manner as required for an amendment to the Zoning Ordinance by Sections 7603 and 7605.

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- b. **Planning Commission Hearing and Recommendation.** The Planning Commission shall hold a hearing on every application for revocation of designation of a landmark or district. After the hearing, the Planning Commission shall recommend to the Board of Supervisors that the application be denied, granted in whole or in part, or modified subject to such conditions as it deems appropriate.
- c. **Board of Supervisors Hearing and Decision.** After receiving the recommendation of the Planning Commission, the Board of Supervisors shall hold a hearing on the application. After the hearing, the Board of Supervisors shall deny, grant in whole or in part, or modify the application, subject to such conditions as it deems appropriate.

(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)

(Amended by Ord. No. 8114 (N.S.) adopted 7-29-92)

7586 REQUIRED FINDINGS.

No application for revocation of designation of a historic and/or archaeological landmark or district shall be approved unless at least one of the following findings is made:

- a. It is found that the landmark or district has been destroyed and its historic, cultural, archaeological and/or architectural values have been eliminated subsequent to its designation as a landmark or district and that no person who had an ownership interest in or occupied the subject property subsequent to its designation as a landmark or district has caused such destruction or elimination by any act, omission or neglect.
- b. New information or analysis shows that the historical resource does not meet any of the following significance criteria:
 - (1) Is associated with events that have made a significant contribution to the broad patterns of San Diego County's regional or community history and cultural heritage;
 - (2) Is associated with the lives of persons important to the history of San Diego County or its communities;
 - (3) Embodies the distinctive characteristics of a type, period, San Diego County region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
 - (4) Has yielded or may be likely to yield, information important in prehistory or history.

(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)

(Amended by Ord. No. 8114 (N.S.) adopted 7-29-92)

(Amended by Ord. No. 9702 (N.S.) adopted 10-31-01)

SUPPLEMENTARY ADMINISTRATIVE PROCEDURES

7600 TITLE AND PURPOSE.

The provisions of Section 7600 through 7649, inclusive, shall be known as the Supplementary Administrative Procedures. The purpose of these provisions is to provide additional procedures for the administration of amendments of the Zoning Ordinance, Variances, Use Permits, Planned Development Permits, and Administrative Appeals.

7601 APPLICATION FORMS AND REQUIRED INFORMATION.

The Director shall prescribe the forms on which all applications shall be made pursuant to The Zoning Ordinance. The Director may prepare and provide blanks for such purpose and may prescribe the type of information to be submitted in the application by the applicant. No application shall be accepted unless it complies with such requirements.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 6983 (N.S.) adopted 7-03-85)

7602 FEES.

Fees shall be paid to the County of San Diego as provided by the Zoning Ordinance for the purpose of defraying the expense of postage, investigation, posting, advertising and other costs incidental to the proceedings prescribed herein. The following provisions shall apply to the establishment, waiver and refund of fees.

- a. Establishment. Fees for consideration of material submitted pursuant to the requirements of the Zoning Ordinance shall be recommended by the Director and approved by the Board of Supervisors.
- b. Fee Schedule. The fees established pursuant to paragraph "a" of this section shall be contained in a Fee Schedule.
- c. Waiver. The application fee for the granting of a Variance, Zone Reclassification, Administrative Permit, Site Plan, or a Use Permit may be waived in any of the following circumstances:
 1. Upon written request of an applicant, when the Director, Planning Commission, or the Board of Supervisors finds the necessity for a Variance is the result of the dedication or granting (without receipt of substantial monetary consideration) of a portion of the property for a public purpose, said Director, Commission, or Board may waive the fee for filing the application for Variance, or
 2. If, after considering a statement supplied by the applicant, it is the opinion of the Board of Supervisors that the request is due to a hardship resulting from some error or negligence on the part of the County or its employees.

3. If the requested waiver of fee is found to conform to the Board of Supervisors Policy regarding refunds and relief from fees when permits are issued in error. The following criteria shall apply:
 - a. An applicant is owed a refund (or a credit) for any fees or deposits paid, fee waiver or other relief when the applicant can demonstrate that:
 - i. The permit issued or approval granted was rescinded due to staff error:
or,
 - ii. An additional County permit or approval is required for the project due to staff oversight; and
 - iii. No misinformation was supplied nor information withheld by the applicant that resulted in the permit rescission or initial oversight.
 - b. Any approval or permit issuance done in error shall not create a liability for the County to pay for or to grant other approvals.
- d. Waived. The application fee is waived for:
 1. Group Care uses with an occupancy of not more than 14 persons and Family Day Care Homes for Children.
 2. Animal Raising Projects pursuant to Section 3115.
 3. Modification of a Major Use Permit for an existing mobilehome park pursuant to Section 6549 a. provided the Director determines that the necessary discretionary action for said modification can occur concurrently with the related tentative subdivision map.
 4. Major Use Permit for an existing mobilehome park not established pursuant to the Mobilehome Park Regulations pursuant to Section 6549 b. provided the Director determines that the necessary discretionary action for said Major Use Permit can occur concurrently with the related tentative subdivision map.
 5. Any Minor Use Permit for a farm labor camp, or Administrative Permit for farm employee housing, for which a complete application was filed between July 13, 1990, and January 13, 1991 pursuant to Ordinance No. 7768 (N.S.) or was filed between April 5, 1991 and October 5, 1991, pursuant to Ordinance No. 7875 (N.S.) or was filed between October 31, 1991 and July 15, 1992, pursuant to Ordinance No. 8086 (N.S.), or was filed between July 1, 2004 and June 30, 2009 pursuant to Ordinance No. 9643 (N.S).

6. Any application for a Building Permit for farm employee housing for which: (i) the Agricultural Commissioner has issued a certificate of active agricultural enterprise; (ii) the housing is not the subject of an active code enforcement action; (iii) the applicant has entered into the contract required by Section 6156 u.9. of The Zoning Ordinance; and (iv) a complete application was filed between July 16, 1992 and June 30, 1993, pursuant to Ordinance No. 8086 (N.S.) or was filed between July 30, 1993, and June 30, 1994, pursuant to Ordinance No 8271 (N.S.), or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8436 (N.S.); or was filed between September 15, 1995 and June 30, 1998 pursuant to Ordinance 8574 (N.S.), or was filed between May 14, 1999 and June 30, 2004 pursuant to Ordinance No. 9012 (N.S.) or was filed between July 1, 2004 and June 30, 2009 pursuant to Ordinance No. 9643 (N.S).

Said costs shall include planning and environmental review fees. Costs associated with review by staff of the Departments of Environmental Health and Public Works shall be waived in their entirety.

7. Waive up to the first \$5,000.00 of costs expended by staff within the Department of Planning and Land Use to process any single Minor Use Permit for a farm labor camp which: (i) is not the subject of an active code enforcement action; (ii) the applicant has entered into the contract required by Section 6906.c of The Zoning Ordinance; and (iii) a complete application was filed between July 16, 1992 and June 30, 1993, pursuant to Ordinance No. 8086 (N.S.) or was filed between July 30, 1993, and June 30, 1994, pursuant to Ordinance No 8271 (N.S.), or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8436 (N. S.); or was filed between September 15, 1995 and June 30, 1998 pursuant to Ordinance No. 8574 (N.S.) or was filed between May 14, 1999 and June 30, 2004 pursuant to Ordinance No. 9012 (N.S.) or was filed between July 1, 2004 and June 30, 2009 pursuant to Ordinance No. 9643 (N.S).

Said costs shall include planning and environmental review fees. Costs associated with review by staff of the Departments of Environmental Health and Public Works shall be waived in their entirety.

8. Appeals by any County citizen advisory body of any land use decision, provided such body is authorized to review and make recommendations pertaining to such decisions pursuant to this Ordinance. The decision to file an appeal must be approved by a majority of the group's authorized membership. If no group meeting is scheduled prior to the end of the appeal period, the Chair of the group may file the appeal or must file the appeal if so directed by petition of a majority of the group's membership. The decision to appeal shall then be confirmed by a majority of the group's authorized membership at their next meeting. Failure to achieve a majority vote in favor of appeal shall require the group to withdraw the appeal.

9. A Site Plan filed pursuant to the Community Design Review Area regulations (Section 5750 et seq.) that is a) within the I-15 Corridor (as defined in the County General Plan), and b) for review of a single dwelling on an existing legal lot or for buildings or structures accessory to such a dwelling.

- e. Refund. At any time prior to final action on any application filed pursuant to The Zoning Ordinance, the applicant may file a written request with the authority having jurisdiction over the application, requesting that the application be withdrawn from further consideration, and that any unused portion of the application fee be refunded. The authority shall then withdraw the application and may recommend to the Board of Supervisors that the application fee or a portion of it be refunded to the applicant. The Board of Supervisors may order the refund of the application fee less any costs said Board shall determine to have been incurred by the County incidental to action on the proposed application.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 5659 (N.S.) adopted 11-27-79)
(Amended by Ord. No. 6002 (N.S.) adopted 2-25-81)
(Amended by Ord. No. 6103 (N.S.) adopted 7-14-81)
(Amended by Ord. No. 6215 (N.S.) adopted 1-13-82)
(Amended by Ord. No. 6236 (N.S.) adopted 2-17-82)
(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)
(Amended by Ord. No. 6715 (N.S.) adopted 1-18-84)
(Amended by Ord. No. 6782 (N.S.) adopted 5-16-84)
(Amended by Ord. No. 7768 (N.S.) adopted 6-13-90)
(Amended by Ord. No. 7875 (N.S.) adopted 3-5-91)
(Amended by Ord. No. 7977 (N.S.) adopted 10-1-91)
(Amended by Ord. No. 8086 (N.S.) adopted 6-16-92)
(Amended by Ord. No. 8199 (N.S.) adopted 1-13-93)
(Amended by Ord. No. 8271 (N.S.) adopted 6-30-93)
(Amended by Ord. No. 8436 (N.S.) adopted 8-3-94)
(Amended by Ord. No. 8574 (N.S.) adopted 8-16-95)
(Amended by Ord. No. 8581 (N.S.) adopted 9-20-95)
(Amended by Ord. No. 8599 (N.S.) adopted 10-11-95)
(Amended by Ord. No. 8897 (N.S.) adopted 3-18-98)
(Amended by Ord. No. 9012 (N.S.) adopted 3-17-99)
(Amended by Ord. No. 9643 (N.S.) adopted 5-5-04)
(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)
(Amended by Ord. No. 9935 (N.S.) adopted 4-23-08)

7603 PUBLIC HEARINGS - SCHEDULING.

Public hearings required by The Zoning Ordinance shall be scheduled as follows:

- a. Hearings before the Zoning Administrator, or Planning Commission shall be scheduled by the Director for a date not less than 10 days but not more than 90 days from the date that an application is determined to be complete. However, if an Environmental Impact Report is required, such hearings shall be scheduled for a date not more than one year from the date that an application is determined to be complete. The Director may, with the consent of the applicant, extend this one year or 90 day period one time for a period of time not to exceed 90 additional days.
- b. Hearings before the Board of Supervisors shall be scheduled by the Clerk of the Board of Supervisors for a date not less than 10 days but not more than 90 days from the date specified below:
 1. Appeals. Where an application is brought before the Board on appeal, the above time period shall commence upon the filing of the appeal.
 2. Other Cases. Where the Board has sole jurisdiction to approve an application, the above time period shall commence upon the latter of either the date the application was determined to be complete, or the date a recommendation is made on the application by any San Diego County authority whose recommendation is required by law.

In the event that a required hearing cannot be held within said 90 days, the Director shall inform the Board as to the reasons for such delay.

Any failure to hold a hearing within the time specified shall not affect the validity of any decision reached as the result of such hearing.

(Repealed and replaced by Ord. No. 8425 (N.S.) adopted 7-13-94)
(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

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7604 PUBLIC HEARINGS - CONDUCT.

Public hearings required by The Zoning Ordinance shall be conducted in accordance with the following provisions.

- a. **Establishment of Rules.** The Planning Commission, or Director respectively may establish rules for the conduct of public hearings. The person acting as chairperson of the Planning Commission is hereby empowered to administer oaths to any person testifying at a hearing before the Planning Commission and the Director is hereby empowered to administer oaths to any person testifying at a hearing before the Director.
- b. **Designated Commissioner May Conduct Hearings.** Public hearings before the Planning Commission shall be conducted before the Planning Commission or before any number of members thereof designated by the Commission so to serve. The member of the Commission presiding at a hearing is hereby empowered to administer oaths to any person testifying at such hearing.
- c. **Commissioner Conducting Hearing Shall File Recommendations.** The member of the Commission presiding at a public hearing held pursuant to paragraph "b" of this section shall, within 10 days after such hearing file a recommendation with the Commission and such recommendation shall be approved, modified or disapproved in which case the action of the Planning Commission shall be final as to action of the Commission.
- d. **Hearings May Be Continued Without Public Notice.** If for any reason, testimony on any matter set for public hearing cannot be completed on the day set for such hearing, the Planning Commissioner Hearing Officer, or Director may, before the adjournment or recess thereof, publicly announce the time to which and the place at which said hearing will be continued and no further notice shall be required.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7605 PUBLIC HEARINGS - NOTICE REQUIREMENT.

Notice of the time and place of public hearings required by The Zoning Ordinance shall be given in the following manner:

- a. **Amendment of The Zoning Ordinance.** If a public hearing on a proposed amendment to The Zoning Ordinance is required by the California Government Code, notice of the hearing shall be given in the manner provided by said Code. If a public hearing on a proposed amendment to The Zoning Ordinance is not required by the California Government Code, any hearing which may be held shall be given notice in the manner as the body holding the hearing shall prescribe.
- b. **Variance and Use Permit Granting.** Notice of any public hearing pertinent to the granting of a Variance, a use permit or use permit modification shall be given in the manner provided by the California Government Code.
 1. If notice is given by mail, such notice shall be mailed, postage prepaid, not less than 10 days prior to the date of such hearing to the owners of property within a radius of 300 feet of the exterior boundaries of the property for which the Variance or permit is sought or has been granted.
 2. If notice is given by posting, notices shall be posted at least 10 days prior to the date of such hearing in at least three conspicuous places close to the property for which the Variance or permit is sought or has been granted.
- c. **Variance and Use Permit Revocation.** Notice of any public hearing pertinent to the revocation of a Variance or use permit shall be given in the following manner. Not less than 10 days prior to the date of any hearing before the Director, Planning Commission or Board of Supervisors, Director or Clerk of the Board, respectively, shall:
 1. Cause a copy of the notice of the time and place of such hearing to be published once in a newspaper of general circulation in the County of San Diego.
 2. Serve a written notice of the time and place of such hearing and a copy of the order upon the owner and upon the person in possession of the premises involved. Service of the notice and copy of order shall be made in the manner required by law for the service of summons, or be registered or certified mail, postage prepaid; provided, however, if no owner or person in possession can be found, the Director shall cause notice of such hearing together with a copy of the order by first class mail, postage prepaid, to be mailed to the person whose name and address appear as owner of the premises

involved on the latest adopted tax roll of the County of San Diego, or, alternatively on such other records of the Assessor or the Tax Collector as contain more recent information in the opinion of the Director.

3. Cause a notice of the time and place of hearing and a copy of order to be sent to such public officers, departments or agency in the opinion of the Director, might be interested, and request report thereon.
- d. Administrative Appeal. Notice of any public hearing pertinent to an administrative appeal shall be given in the same manner as prescribed by the California Government Code for variance and use permit.
- e. Supplementary Notice. Any additional methods of notification of public hearings may be employed at the discretion of the body or the officer before which the hearing is to be held.
- f. Signatures Of Applicants as Evidence of Notice. If signatures of persons other than the owners of property making the application are required or offered in support of, or in opposition to, an application, they may be received as evidence of notice having been served upon them of the pending application, and/or as evidence of their opinion on the pending issue, but they shall in no case infringe upon the free exercise of the powers vested in the Director, the Planning Commission or the Board of Supervisors.

(Amended by Ord. No. 5787 (N.S.) adopted 6-4-80)
 (Amended by Ord. No. 6506 (N.S.) adopted 1-5 83)
 (Amended by Ord. No. 6983 (N.S.) adopted 7-03-85)
 (Amended by Ord. No. 7576 (N.S.) adopted 1-11-89)
 (Amended by Ord. No. 8425 (N.S.) adopted 7-13-94)
 (Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7606 REQUIRED WORDING OF NOTICES.

Public notices of hearings on proposed amendments of the Zoning Ordinance shall consist substantially of the words "Notice of Proposed Change of Zone Boundaries or Classifications," when appropriate, and otherwise "Notice of Proposed Amendment of the County Zoning Ordinance." Public notices of hearings on proposed Variances, use permits, and Administrative Appeals shall consist substantially of the words "Notice of Proposed Variance, Use Permit, or Administrative Appeal," respectively. All notices subject to this section shall describe the location of the property under consideration, the nature of the proposed change or permit, the time and place at which the public hearing or hearings on the matter will be held, and the name and phone number of cognizant County administrative personnel who may be called to provide interested parties with additional information.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
 (Amended by Ord. No. 5787 (N.S.) adopted 6-4-80)

7607 PUBLIC HEARINGS - ADDITIONAL MATTERS IN NOTICE.

Where application is made for an amendment of The Zoning Ordinance which proposes changing the zone classification of any property or the boundaries of any zone, or for a Variance or Major Use Permit, the Director, or the Planning Commission shall have the discretion to include in the notice of hearing on such application, notice that the Planning Commission will consider classification other than that proposed and/or additional properties and/or uses and/or Variances. Where application is made for an ordinary Variance or a Minor Use Permit, the Director shall have the discretion to include in the notice of hearing on such application notice that the Director will consider additional uses and/or Variances.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 8166 (N.S.) adopted 10-21-92)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7608 INVESTIGATIONS.

The Planning Commission, or the Director shall cause an investigation to be made of facts bearing on an application for granting, extending, or modifying, or an action to revoke or modify a variance or use permit, or whenever necessary to investigate a proposed amendment of The Zoning Ordinance, an application for a planned development permit, or an Administrative Appeal. The investigation shall include an analysis of precedent cases as will serve to provide all necessary information to assure action on each case consistent with the purpose of The Zoning Ordinance and with prior actions.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7609 MINOR DEVIATION FROM PLAN.

In the event there is granted a Variance, Site Plan or Use Permit which allows or requires land to be used or developed in accordance with a plan, or plans that are referred to in such Variance, Site Plan, or Use Permit, Minor Deviations from said plan may be authorized in accordance with the following provisions.

- a. Intent. This section provides for situations where it is necessary to deviate from a plan in a minor way which is consonant with the purpose and intent of the related Variance, Site Plan or Use Permit. The intent of this section is to provide for flexibility in the operation of Variances, Site Plans and Use Permits by permitting these Minor Deviations to be administratively granted by the Director. It is not the intent of this section to permit deviations from plans which violate the intent and purpose of the related Variance, Site Plan or Use Permit or any of its conditions, or to allow any action for which a Variance, Site Plan or Use Permit would be required by The Zoning Ordinance.

- b. **Jurisdiction.** The Director may authorize Minor Deviations from plans pertinent to all Variances, Site Plans and Use Permits granted by the Board of Supervisors, the Planning Commission, or the Director.
- c. **Required Findings.** A Minor Deviation from a plan shall be authorized only after findings that:
 - 1. The requested deviation does not constitute a substantial change in the Variance, Site Plan, or Use Permit; and
 - 2. The requested deviation will not adversely affect adjacent property or property owners.
- d. **Prohibited Deviations.** No deviation from a plan, or deviations having a cumulative effect, shall be authorized which would permit one or more of the following:
 - 1. An increase or decrease from the original approved plan of more than 10 percent of the gross area of any yard, open space, working area or parking area, provided that no decrease may be permitted in any required yard for which an exception pursuant to Section 4813 or a Variance is required:
 - 2. An increase or decrease from the original approved plan of more than 10 percent of the size of any building or structure or of the total land area covered by any building or structure;
 - 3. An increase or decrease from the original approved plan of more than 10 percent of the height of any building or structure or of any part thereof, or of the depth or area of an excavation, slope or working area; or
 - 4. In case of Use Permits and Site Plans, an increase in the number of buildings or structures shown on the original approved plan so as to increase by more than 10 percent the total land area covered by all buildings and structures.
 - 5. A sign, if signs are not regulated by the approved Variance, Site Plan or Use Permit except that a Minor Deviation for a sign or sign program subject to a Community Design Review, Historic Landmark, Historic District or Design Review special area regulations designator may be approved upon due consideration of the recommendation of the applicable Design Review Board, Historic Site Board, Historic District Review Board, or Community or Subregional Planning Group.

- e. **Application Form, Filing and Fee.** An application requesting a minor deviation from a plan shall be made on the form prescribed by the Director, shall be filed with the authority having jurisdiction as provided by paragraph "b" of this section, and shall be accompanied by the fee referenced in Section 7602.
- f. **Hearing Not Required.** Any action of the Director pursuant to this section may be taken without notice or public hearing.
- g. **Decision is Final.** Any decision by the Director pursuant to this section shall be final; provided, however, that the denial by the Director of a request for a minor deviation from a plan shall not prevent the applicant from applying for a new Variance, Site Plan, or use permit or modification thereof pursuant to the Zoning Ordinance.

(Amended by Ord. No. 5786 (N.S.) adopted 6-4-80)

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 7740 (N.S.) adopted 3-28-90)

(Amended by Ord. No. 8105 (N.S.) adopted 7-15-92)

(Amended by Ord. No. 8236 (N.S.) adopted 5-5-93)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7610 ENVIRONMENTAL IMPACT REVIEW - REQUIRED INFORMATION.

Notwithstanding any other provision of the Zoning Ordinance, all applications for the granting of a variance, use permit, zoning ordinance amendment request, and planned development permit shall include at least one of the following:

- a. **Negative Declaration.** A negative declaration on proposals which are not environmentally significant;
- b. **Draft EIR.** A draft EIR on proposals which could have significant environmental effects;
- c. **Categorical Exemption.** A certification by the Director of categorical exemption; or
- d. **Other Certification.** A certification by the Director that the proposal is otherwise not subject to the environmental review requirements of the Environmental Quality Act of 1970.

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7611 ENVIRONMENTAL IMPACT REVIEW - CONSIDERATION.

The Board of Supervisors, Planning Commission, or Director, whoever has jurisdiction to grant, conditionally grant, or deny an application for which an environmental impact report has been prepared, shall consider such report as independent evidence in making the decision whether to grant, conditionally grant or deny the application. In addition to any other discretion granted by law, such Board, Commission or County officer shall have the authority to consider the adequacy of the environmental impact report and shall have the authority to require the preparation of a supplementary report in any case in which a supplementary report is deemed by it to be necessary as a basis for a decision on the application.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7612 BOND TO INSURE PERFORMANCE OF CONDITIONS.

Every bond to insure performance of conditions shall be a penalty bond and shall be in a form satisfactory to the Director, Planning Commission or Board of Supervisors, whoever requires same, shall be payable to the County of San Diego and shall be conditioned upon compliance with the conditions and limitations including any limitation of time, upon which such variance or use permit is granted. Upon the breach of any condition or limitation, including a limitation of time, upon which the variance or use permit is granted, the money or the bond furnished as security shall be forfeited to the County of San Diego and such money or the money collected on any such bond shall be paid into the general fund of the County of San Diego.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7613 INSURING PROVISION OF IMPROVEMENTS.

- a. **Deposit.** Every agreement to provide required improvements shall be accompanied by an amount of money to be deposited with the Director of Transportation to guarantee the adequate completion of said improvements. The amount shall equal the estimated cost of construction of the required improvements at the end of the time specified in the agreement.
- b. **Bond or Instrument of Credit.** If the estimated cost of the improvements is \$1,000 or more, in lieu of such deposit the permittee may file with the Director of Transportation an appropriate surety bond, guaranteeing the completion of all the improvements, in a penal sum equal to such estimated cost. In lieu of the bond, the Director of Transportation may at his discretion accept an instrument of credit such as is authorized by the Subdivision Map Act or other security in a form approved by County Counsel.

- c. **Form of Bond.** The surety bond shall be in a form approved by the County Counsel and shall provide that in the event suit is brought upon the bond by the County of San Diego and judgement is recovered, the surety shall pay all costs incurred by the County in such suit, including reasonable attorney's fees to be fixed by the court.
- d. **Action Upon Failure to Complete Improvements.** Upon failure to complete any improvements within the time specified in an agreement, the Director of Transportation may, upon 20 or more days notice served in writing upon the person, firm or corporation signing such agreement or upon 20 or more days notice sent by registered mail addressed to the last known address of the person, firm or corporation signing such agreement, determine that said improvement work or any part thereof is incomplete whereupon the County may complete such work and may deduct the cost of completion from the amount of money deposited or recover such costs from the surety. Alternatively, the County may estimate the cost of completing such work and may deduct such estimated cost from the amount of money deposited or recover such estimated cost from the surety or place a demand with the financial institution under an instrument of credit.

7614 **ADMINISTRATIVE DEVIATION FROM AN APPROVED PLANNED DEVELOPMENT PLOT PLAN FOR HOMEOWNER IMPROVEMENTS**

An administrative deviation from the approved plot plan of a planned development authorized by Section 6600 et seq. of this ordinance may be approved by the Department for minor structures accessory to an individual residence. Deviations may be granted to allow construction or alteration of minor homeowner improvements such as patio covers, pools, spas, fences, or decks (except cantilevered decks or decks overhanging a slope). Room additions and detached accessory buildings no larger than 500 square feet or higher than one story may also be authorized.

An administrative deviation may be granted by the Department if the Department finds that it meets the following requirements:

- a. A written recommendation on the proposed deviation has been obtained from the appropriate planned development homeowner's association.
- b. The deviation would not conflict with the conditions of the approved planned development use permit decision, or with proposed or existing improvements, common facilities or open space, shown on the approved planned development use permit plot plan.
- c. The deviation would not constitute a substantial change in the planned development use permit.
- d. The deviation will not adversely affect adjacent property or property owners.

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- e. The deviation complies with the minor deviation criteria of Section 7609(d).
- f. An application form shall be submitted and a processing/record-keeping fee shall be collected at the time an administrative deviation is requested, pursuant to the fee referenced in Section 7602.

Any decision by the Director pursuant to this section shall be final. Proposed planned development deviations for homeowner improvements deemed not to qualify under these provisions, must comply with the use permit modification provisions of Section 7378.

(Added by Ord. No. 8599 (N.S.) adopted 10-11-95)

7615 SALE OF COPIES.

Copies of maps, charts, plats and other descriptive matter made and provided for in this Ordinance may be sold by the Department of Planning and Land Use at the cost of printing, bindings and distributing the same. All moneys received therefrom shall be paid into the County Treasury as provided by law.

(Amended by Ord. No. 7935 (N.S.) adopted 6-19-91)

ENFORCEMENT PROCEDURES

7700 TITLE AND PURPOSE.

The provisions of Section 7700 through Section 7749, inclusive, shall be known as the *Enforcement Procedures*. The purpose of these provisions is to ensure compliance with The Zoning Ordinance. These provisions shall apply to the enforcement of The Zoning Ordinance, but shall not be deemed to exclude other measures.

7701 AUTHORITY TO ENFORCE.

The Director shall have the authority to enforce all of the provisions of this Ordinance. All officials, departments, and employees of San Diego County vested with the authority to issue permits, certificates, or licenses shall adhere to, and require conformance with The Zoning Ordinance.

(Amended by Ord. No. 8555 (N.S.) adopted 7-14-95)

(Amended by Ord. No. 8962 (N.S.) adopted 9-23-98)

7702 INSPECTION TO INSURE COMPLIANCE.

Whenever they shall have cause to suspect a violation of any provision of The Zoning Ordinance; or whenever necessary to investigate either an application for granting, extension or modification of any application described in this Ordinance or in the Subdivision Ordinance, or an action to revoke or modify a variance or a use permit, or whenever necessary to investigate a proposed amendment of The Zoning Ordinance, the officials responsible for enforcement or administration of The Zoning Ordinance or their duly authorized representatives, may enter any site for the purpose of investigation, provided they shall do so in a reasonable manner. No owner or occupant or agent thereof shall, after reasonable notice and opportunity to comply, refuse to permit such entry. In the course of such inspection, no enclosed building or structure shall be entered without the express permission of the owner or occupant.

(Amended by Ord. No. 7152 (N.S.) adopted 6-11-86)

7703 VIOLATIONS AND PENALTIES.

It shall be unlawful for any person to use any property or erect, construct, enlarge, alter, repair, move, remove, improve, convert or demolish, equip, use, occupy or maintain any building or structure, or cause the same to be done, contrary to or in violation of any of the provisions of this Ordinance. Any person violating any of the provisions of this Ordinance, including the violation of any condition of a use permit, shall be deemed guilty of a misdemeanor unless, in the discretion of the prosecutor, it is charged as an infraction.

- a. Each day or portion of a day that any person violates or continues to violate this ordinance constitutes a separate offense and may be charged and punished separately without awaiting conviction on any prior offense.

- b. Any person convicted of a misdemeanor under this ordinance shall be punished by imprisonment in the County jail not exceeding six months, or by a fine not exceeding \$1,000, or by both.
- c. Any person convicted of an infraction under this ordinance shall be punished by a fine not exceeding \$100 for the first violation; by a fine not exceeding \$200 for a second violation of this ordinance within one year; and by a fine not exceeding \$500 for each additional violation of the same provision of this ordinance committed by that person on the same site within one year.
- d. Paying a fine or serving a jail sentence shall not relieve any person from responsibility for correcting any condition which violates any provision of this ordinance.
- e. Violation is A Public Nuisance. Any building or structure erected, constructed, altered or maintained and/or any use of property contrary to the provisions of these regulations shall be and the same is hereby declared to be unlawful and a public nuisance, and any failure, refusal or neglect to obtain a permit as required by the terms of this ordinance shall be prima facie evidence of the fact that a nuisance has been committed in connection with the erection, construction, alteration or maintenance of any building or structured erected, constructed, altered or maintained or used contrary to the provisions of this ordinance. The public nuisance may be abated in accordance with the Uniform Public Nuisance Abatement Procedures contained in Chapter 2, Division 6, Title 1 (commencing with Section 16.201) of the San Diego County Code or County Counsel shall, upon order of the Board of Supervisors immediately commence necessary proceedings for the abatement, removal and/or enjoinder thereof in the manner provided by law.
- f. Citation Authority. Pursuant to the provisions of California Penal Code Sections 19d and 836.5, the Director of the Department of Planning and Land Use or specific individuals deputized by the Director may arrest a person without a warrant whenever the Director or the authorized deputy has a reasonable cause to believe that the person arrested has committed an infraction or misdemeanor in his presence which is a violation of The Zoning Ordinance, which he or she has the duty to enforce. An officer or employee making an arrest under the authority of this section shall follow the citation-release procedures prescribed by the California Penal Code, or such procedures hereinafter enacted by the State of California. No agent or deputy shall exercise the power to issue citations authorized above unless such agent or deputy shall first have completed a course of training that meets the minimum standards prescribed by the Commission on Peace Officers Standards and Training as established by Section 832(a) of the Penal Code.

- g. **Civil Penalties For Violation of The Zoning Ordinance.** As part of a civil action filed by the County to enforce provisions of this Ordinance, a court may assess a maximum civil penalty of \$2500 per violation of The Zoning Ordinance for each day during which any violation of any provision of this Ordinance is committed, continued, permitted or maintained by such person(s). As part of said civil action, a court may also assess a maximum civil penalty of \$6000 for each day any person intentionally violates an injunction prohibiting the violation of any provision of this Ordinance.
- h. **Administrative Remedies.** In addition to all other legal remedies, criminal or civil, which are available to the County to address any violation of The Zoning Ordinance, the County may use the Administrative Remedies found at Division 8 of Title 1 of the County Code.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
 (Amended by Ord. No. 6789 (N.S.) adopted 5-30-84)
 (Amended by Ord. No. 6924 (N.S.) adopted 2-20-85)
 (Amended by Ord. No. 7152 (N.S.) adopted 6-11-86)
 (Amended by Ord. No. 7200 (N.S.) adopted 9-16-86)
 (Amended by Ord. No. 8015 (N.S.) adopted 12-4-91)
 (Amended by Ord. No. 8555 (N.S.) adopted 7-14-95)
 (Amended by Ord. No. 8962 (N.S.) adopted 9-23-98)
 (Amended by Ord. No. 9063 (N.S.) adopted 10-24-00)
 (Amended by Ord. No. 9690 (N.S.) adopted 12-15-04)

7704 REFUSAL TO ISSUE OR SUSPENSION OF BUILDING PERMIT.

The Director may suspend or refuse to issue any building permit, including plumbing, electrical, mechanical and structural permits, if the Director determines that there is a violation of this or any other ordinance or regulation involving the property upon which the permit was applied for or was issued or involving signs advertising the subdivision or development within which the property is located.

Written notice of such suspension or refusal to issue shall be mailed to the applicant for the building permit and to the property owner, if different from the applicant. Such written notice shall include information regarding the specific violation(s) and the action(s) necessary to abate such violation(s).

The suspension or refusal to issue shall be rescinded upon submission of evidence satisfactory to the Director that such violations have been abated.

(Added by Ord. No. 7152 (N.S.) adopted 6-11-86)
 (Amended by Ord. No. 8555 (N.S.) adopted 7-14-95)
 (Amended by Ord. No. 8962 (N.S.) adopted 9-23-98)

7705 SPECIFIC PLAN.

Violation of the requirements of a Specific Plan adopted by the Board of Supervisors constitutes a violation of The Zoning Ordinance.

